

INTERVIEWS, INVESTIGATIONS, AND APPREHENSIONS

MP2005

EDITION C

U.S. Army Military Police School

Six Credit Hours

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SUBCOURSE OVERVIEW

The Apprehension, Investigation, and Interviews Subcourse is designed to teach you how to apprehend suspects, conduct investigations, and how to interview witnesses and victims. Also discussed in this lesson are identifying the policies, procedures and techniques of: supervising MPI Section activities; conducting interviews and interrogations of witnesses, victims, suspects, or accused persons; conducting apprehensions and searches incidental to apprehensions; directing MPI Section personnel through the policies and procedures of returning absent service members to military control. This subcourse contains three lessons.

There are no prerequisites for this subcourse.

This subcourse reflects the doctrine that was current at the time it was prepared. In your own work situation, always refer to the latest official publications.

Unless otherwise stated, the masculine gender of singular pronouns is used to refer to both men and women.

TERMINAL LEARNING OBJECTIVE

ACTION: You will direct interviews, conduct apprehensions, and become familiar with the investigation section activities.

CONDITION: You will have this subcourse.

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Subcourse Overview	
Lesson 1: INTERVIEW A WITNESS/QUESTION A SUSPECT	
Part A: Terms related to Interviews and Interrogations	
Part B: Prepare for an Interview or Interrogation	

- Part C: Conduct an Interview
 - Part D: Conduct an Interrogation
 - Part E: Sexual Assault Prevention and Response program
 - Part F: Document an Interview or Interrogation
 - Part G: Victim/Witness Assistance Program
- Practice Exercise

Lesson 2: APPREHENSIONS AND SEARCHES INCIDENTAL TO APPREHENSIONS

- Part A: Laws and considerations for apprehensions and searches incidental to apprehensions
 - Part B: Procedures and Techniques Used in Apprehending and Performing Searches Incidental to Apprehensions
- Practice Exercise

Lesson 3: DIRECT MILITARY POLICE INVESTIGATIONS SECTION ACTIVITIES

- Part A: Personnel Management
 - Part B: Section Records, Files, and Forms
 - Part C: Investigative Activities Management
- Practice Exercise

LESSON 1

INTERVIEW A WITNESS/QUESTION A SUSPECT

OVERVIEW

LESSON DESCRIPTION:

This subcourse is designed to teach how to carry out the duties involved in interviewing or questioning witnesses, suspects, or victims.

TERMINAL LEARNING OBJECTIVE:

ACTION: Interview or interrogate witnesses, suspects, or victims to obtain a statement.

CONDITION: An offense has been committed. A witness, suspect, or victim of the offense has been identified and is available for interview or interrogation. As an MP or Department of the Army Civilian (DAC) detective/investigator, you have DA Form 3881, Rights Warning Procedure/Waiver Certificate, and DA Form 2823, Sworn Statement.

STANDARDS: Demonstrate competency of this task by achieving a minimum passing score of 70 percent on the final subcourse examination.

REFERENCES: FM 19-10, FM 3-19.13, AR 190-30 and AR 190-45.

INTRODUCTION

As Military Police (MP), you need an understanding of terms so that everyone can talk the same language. In addition, interviews and interrogations are based on the incident or an offense. Normally, they involve three groups of people: victims, suspects, and witnesses. This lesson provides you with information on how to prepare for and conduct an investigation.

PART A - DEFINE TERMS RELATED TO INTERVIEWS AND INTERROGATIONS.

Interviews and interrogations are methods utilized by MP, Military Police Investigations (MPI), DAC detectives/investigators, and Criminal Investigation Division (CID) agents to obtain testimonial evidence from or about persons connected with or having knowledge of a criminal offense. An understanding of the following definitions will be helpful as you progress through this lesson plan.

1. **Victim:** A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime.
2. **Suspect:** A person about whom credible information exists to believe that the person committed a particular criminal offense.
3. **Witness:** A person who has information or evidence about a crime.
4. **Statement:** An assertion (written or oral) of facts that is pertinent to an investigation. It is secured from anyone having knowledge of an offense.
5. **Admission:** A self-incriminating statement that falls short of a complete acknowledgment of guilt.
6. **Confession:** A complete acknowledgment of guilt.
7. **Interview:** The questioning of a person who is ready, willing, and able to provide information.
8. **Interrogation:** The questioning of a person who is not able or willing to fully disclose pertinent information they possess.

PART B - PREPARE FOR AN INTERVIEW OR INTERROGATION.

Interviews and interrogations are separate events. When a criminal offense has been committed, it is the responsibility of the MPI or DAC detective/investigator to determine what happened by utilizing proper interviewing and interrogation techniques and reviewing all the facts from all parties involved or having knowledge of the offense. Although physical evidence may lead to a conviction of criminal offense, the only way to truly know the full extent of the crime is to hear it from the person who committed the offense.

1. Prior to conducting an interview or interrogation, you must understand the difference between the two and the setting in which each one can take place. When interviews or fact finding explorations are conducted, they are not planned or structured, but are conducted in a free-flowing form to and from the investigator. The investigator will allow the person being interviewed to give his account of what happened in his own words in a nonthreatening setting. After the person gives his account of the incident, the investigator may want to ask questions to clarify any key points. Interviews are frequently done in a variety of settings, locations, and environments. It is not uncommon to conduct an interview in the home, business, or other location when the person being interviewed feels comfortable.

2. An interrogation involves questioning a person who is not able or willing to fully disclose pertinent information he possesses about a criminal offense. An interrogation is well structured and controlled, with a defined end result in mind, whether it is a confession or creditable information of a crime that has been committed. An interrogation should never be conducted with the advantage in favor of the person being questioned. The location for the interrogation should provide the utmost advantage to the interrogator and provide absolute privacy. The room utilized for the interrogation should not be equipped with telephones, wall hangings, windows, or other distractions. See figure 1-1, which shows the difference between an interview and an interrogation.

OBJECTIVES OF INTERVIEWS AND INTERROGATIONS	
INTERVIEWS Investigators interview persons who are willing to give information. The aims or goals include—	INTERROGATIONS Investigators interrogate only persons suspected of having committed or helped commit an offense. The aims or goals include—
<input type="checkbox"/> GATHERING INFORMATION	<input type="checkbox"/> LEARNING THE TRUTH
<input type="checkbox"/> DEVELOPING LEADS	<input type="checkbox"/> OBTAINING AN ADMISSION OF GUILT
<input type="checkbox"/> AIDING IN LOCATING PROPERTY	<input type="checkbox"/> RECOVERING EVIDENCE /PROPERTY
<input type="checkbox"/> ASSISTING IN CLEARING SUSPECTS	<input type="checkbox"/> DISCOVERING CRIMES
<input type="checkbox"/> VERIFYING SUSPICIONS	<input type="checkbox"/> OBTAINING ALL THE FACTS
<input type="checkbox"/> CONDUCTING INTERROGATIONS	<input type="checkbox"/> ARRIVING AT A CONCLUSION
<input type="checkbox"/> GATHERING CRIMINAL INTELLIGENCE NEEDS	<input type="checkbox"/> DEVELOPING CRIMINAL INTELLIGENCE INFORMATION

Figure 1-1. Interview/Interrogation Differences

3. Prior to conducting an interview or interrogation, the investigator should know what he is after. This can be done by properly preparing himself by becoming acquainted with the facts of the case as well as who is involved or has knowledge of the crime or incident. There are basic elements of information that are needed to

conduct either an interview or an interrogation, such as the questions that need to be asked; if someone is telling the truth, lying, or just has the facts confused; and to have some idea as to what information this person being interviewed has concerning the incident under investigation.

a. Review circumstances of the incident.

Before an interview is conducted the investigator should learn about the incident. This information can be ascertained from the original MP report, investigation case files, physical evidence, visiting the crime scene, and from talking to the first responding officer on the scene.

b. The circumstances of the incident involve two areas of concern:

(1) The description of the incident, this involves the, who, what, when, where, and how the incident took place. Review and refresh your memory concerning the incident pertinent to the interview. The facts may be drawn from physical evidence or from statements of witnesses. Create as thorough a mental picture of the incident as possible.

(2) The elements of proof and laws that apply to the criminal offense. As an investigator, you must know about the laws and elements of proof that apply to the offense.

c. Acquire background knowledge of the witness, victim, or suspect that will be interviewed. By obtaining this information, the investigator can check the interviewee's truthfulness and he can impress the interviewee with how much the investigator already knows about the case and the person being interviewed.

d. The background knowledge the investigator needs to have of an interviewee should include, but not be limited to:

(1) Age.

(2) Place of birth.

(3) Nationality.

(4) Race.

(5) Present or former rank.

(6) Present duty and former occupations.

(7) Habits and associates.

(8) Records of conviction or detention, and records in the local Provost Marshal Office and Crime Record Center (CRC). The CRC will conduct a search of files for available information. Prior convictions may or may not be relevant to the incident you are investigating (the convictions themselves do not point to guilt). A name check can be made through coordination with the local CID office that has access to CRC.

(9) Other facts, such as the social, financial, and medical status of witnesses, victims, or suspects, may be relevant to the case. The investigator will not know what facts may be important until he talks with the person. Therefore, the investigator needs as many facts as possible. A check of background information may also reveal potential personality conflicts. Although, the investigator, as a professional, may encounter a time when,

due to personal emotions, he will not be able to objectively conduct an interview or interrogation. In this case, he should arrange for another investigator to take his place.

e. Prepare interview outline. After the investigator compiles all the background information he needs concerning the personnel he will interview and the element of the incident, he will need to outline the type of questions he will need to address.

(1) The investigator should construct a general outline of the areas he will want to address and the facts that he will need to ascertain. A carefully planned outline and/or set of questions will help. Remember the goal of the interview is to obtain a true statement of what occurred.

(2) Structure the outline to obtain, verify, and/or clarify missing or confusing information. The outline should be able to obtain facts that the investigator expects the interviewee to know; for example, you would expect the victim to know the time frame and location of the incident under investigation.

(3) The questions from the outline should be in a logical sequence. One question should follow the response to the previous one. Since you cannot anticipate all responses, your inquiry may lead into a different area than you anticipated.

(4) One key to a successful interview is having questions that are appropriate. The questions must get to the point. They must stimulate recall and allow a person to describe environments, conditions, and events. The goal is to have the interviewee tell his story or describe the incident under investigation, not just nod in agreement or disagreement.

(a) Photographs and sketches can be used as memory aids.

(b) Questions that yield "yes" or "no" answers should be avoided.

f. Schedule time and location.

(1) The interview or interrogation should be held as soon as possible after the incident occurred. You should have sufficient time to evaluate the information you will obtain. You want to talk to a witness or victim and get a statement while their memory is still fresh. You also want to talk to a suspect before he has had time to think of alibis or talk with accomplices. There are times, however, when you have to delay an interrogation. You might need to collect evidence or research the suspect's background. The length of time for an interview or interrogation varies. When scheduling an interview with a victim or witness, it should be at their convenience. The interview should not be rushed or hurried. Likewise, an interrogation must not have a predetermined time limit, or continue for so long as to suggest duress.

(2) The location of an interview or interrogation is also variable. It may occur at the scene of an offense. For formal interviews, however, a victim or willing witness may be interviewed where they would feel comfortable. This could be at their home or place of employment, as well as at your office. You should talk with suspects or unwilling witnesses (unwilling to cooperate for any number of reasons) in an interrogation room. You can control distractions there and have a psychological advantage.

The interrogations room should be private and free from distractions, such as telephones and room décor. The rooms should be strategically furnished and arranged to ensure the most practical and conducive environment. If the room is equipped with a two-way mirror, the person being interviewed should not be facing it. The room should be furnished with a table small enough to complete required paperwork such as DA Form 3881 (Right Warning) and DA Form 2823 (Written Statement), but not so large that it serves as a physical

barrier once the interview starts. The rooms should also contain two chairs, the first being a standard four legged stationary chair for the interviewee and a chair with rollers for the interviewer, so he move back and forth from the table to the interviewee as paper work is being completed. The temperature should be regulated to a comfortable level to prevent later accusations that a statement was made under duress. See figure 1-2, which depicts what the interrogation room should look like.

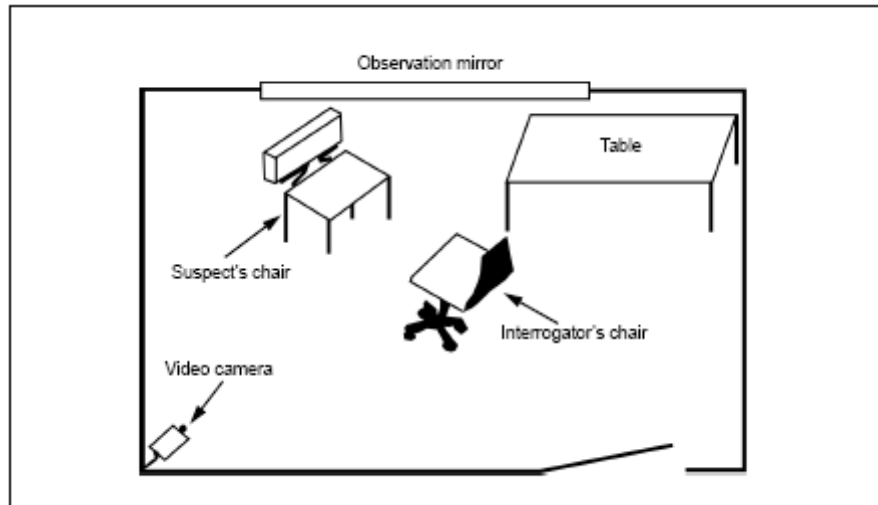


Figure 1-2. Correct Arrangement of Interrogation Room

g. Arrange for witness/interpreter.

(1) Prior to arranging for an interview or interrogation, it is advisable to ensure you have a witness or interpreter present during the course of the session. This witness can refute any accusations the interviewee may make towards the interviewer or confirm what was said or done during the session.

(a) At an interview, there is no legal requirement to have a witness present for executing the affidavit on DA Form 2823 or when completing DA Form 3881 (Rights Warning and Waiver); however, it is advisable to have one.

(b) In an interrogation, have a witness for the rights warning and waiver, and for the execution of the DA Form 2823 affidavit. The witness to these events should be the same person. This is just in case both you and the witness need to appear in court. At no time should you have more investigators than necessary. This could be used by a defense counsel to indicate a statement was made under duress.

(c) The interview witness should be of the same sex as the interviewee. The witness can either be in the room or observing through a two-way mirror.

(2) An interpreter may be required for an interviewee. You should be able to determine if you need one based on your background knowledge of the person. Language barriers should be the key factor in a decision to use an interpreter.

(3) When preparing an interview/interrogation, provide your questions to the interpreter before the interview. The questions should be in writing, clear, brief, and able to yield brief, factual answers. You don't want a long-winded story from someone that takes hours to translate.

(4) Remember that the interpreter is nothing more than a "talking machine." You are in control of the interview. An interpreter must never ask his own questions. He must never paraphrase questions or answers. He must never hold back information. You must ask questions directly to the interviewee. He will respond directly, with the interpreter repeating the translation word-for-word.

h. Determine means to record interview/interrogation.

(1) As an investigator, you need to determine if recording the interview or interrogation is feasible and practicable. There are two methods in which to record an interview or interrogation; they are notes and electronic recordings devices.

(2) The use of another investigator or a stenographer can take the notes during the course of the interview. If the interviewer is taking his own notes, they should be taken only after the interviewee has told his story at least once. Quick notes such as names, address's and phone numbers should be taken down immediately during the course of the interviewee story. It is imperative that good, concise notes are taken during the interview, as they will assist the investigator to establish whether the interviewee is telling the truth, is confused, or admits to their involvement in the offense. If an interviewee is bothered by your note taking, you might delay it until later. If you are using an interrogation room, use secretarial assistance. Remember, the goal of recording the interview/interrogation is to construct a written statement. Your notes should be as complete as possible.

(3) An electronic recording device may be utilized during the course of the interview or interrogation. Prior to the utilization of such equipment, there are mandatory and legal guidelines that must be following by the interviewee to ensure the recording is done correctly and will be admissible in court. Prior to the interview being recorded, the investigator must notify the interviewee that the interview will be recorded and obtain his permission to record the interview in writing or verbally on the recording, unless there is Army general counsel approval for recording and/or intercepting the interview.

(4) At the start of the interview or interrogation, an introduction of parties present should be done, as well as the time, date, location and agreement to the recording of the interview. The interview or interrogation should not be conducted without recording all of the introduction phase. During the course of the interview or interrogation, if a break is needed, the interviewee should state that a break is being taken along with the time and reason. Once the interview continues the interviewee should state the time, date, and a brief description stating what occurred during the break.

i. Coordinate with the Staff Judge Advocate (SJA).

One of the major tools an investigator has to ensure that the investigation is being conducted correctly and within the confines of the law is the Office of the SJA. The SJA can assist and guide the investigator with meeting the elements of proof for the crime that he is investigating. Prior to interviewing, interrogating, or apprehending a suspect/subject, the SJA can validate all elements of proof of the criminal act and ensure that no errors are found within the investigative process that would result in the charges not being valid or the violation of the suspect's/subject's rights. Keeping the supporting SJA involved throughout the investigative process will also assist in the prosecution of the case when or if it should go to trial.

j. Photographing and fingerprinting.

Two of the most valuable aids to a criminal investigation are the ability to take photographs and obtain fingerprints from a crime scene and/or a suspect/subject. When properly taken, photographs and fingerprints, along with the appropriate tracking log, can provide identification for both present and future investigations. Prior to photographing or fingerprinting civilians or juveniles, ensure consent is given by the individual, as they may retain the right not to submit to photographs or fingerprinting.

(1) During the course of processing a crime scene the photographing of both physical and tangible evidence must take priority before the evidence is moved, collected, or in danger of being damaged due to inclement weather or other means. Photographs of an individual suspected of committing a criminal offense should be done during the in processing period or after the completion of the interview/interrogation if the suspect admits to the criminal offense, or, if through the interview/interrogation process, enough testimonial evidence is obtained to title or charge the suspect.

(2) Fingerprint evidence remains the most positive means of personal identification in forensics. Often compared with other modern innovations such as DNA, fingerprint evidence results in positive identification whereas other evidence does not. Identification can be effected from fingerprints made in blood, paint, or other contaminants that no other form of evidence can accomplish. When processing a crime scene, record prints of victims, witnesses, suspects, medical, and law enforcement personnel, or anyone else that might enter the crime scene area, or handle evidence, to account for, and eliminate, suspects. Fingerprinting individual(s) suspected of committing a criminal offense should be done during the in processing period or after the completion of the interview/interrogation, if the suspect admits to the criminal offense or, if through the interview/interrogation process, enough testimonial evidence is obtained to title or charge the suspect.

PART C - CONDUCT AN INTERVIEW.

Now that the investigator has prepared for his interview by learning about the incident under investigation and the person(s) to be interviewed, preparing an outline of questions, scheduling a time and place, and arranging for witnesses/interpreters as needed, he is ready to conduct the actual interview. The interview may follow the sequence of questions he has prepared, or it may take another direction. In either event, there are some basic elements common to all interviews.

a. Provide interview introduction.

(1) The beginning of an interview is a good place to build a good rapport with the interviewee. It is very important that a good rapport is established and maintained throughout the course of the interview process and investigation. During the introduction period is the only time when the investigator will do most of the talking. He needs to relate information to the interviewee, including his name, position, and credentials, state the nature of the offense and the reason for the interview. The investigator should take his time and express concern for the person and relate the importance of the case, especially with victims. Give a general statement of the status of the case, but do not disclose specific facts or details. The introduction sets the mood for the entire interview. By showing concern, he will receive more cooperation than if he just started asking questions.

(2) During the introduction phase, the victim, suspect, and witness will develop an impression as to the professionalism of the investigator and start sizing him up. An investigator who is perceived as unprofessional, rude, lazy, unprepared, or uncaring will not gain the trust and confidence of the person he is interviewing, and may be challenged in the future if interviewing a suspect.

b. Determine appropriate actions and attitudes.

(1) During the course of the interview, the investigator must maintain a professional and sincere attitude appropriate to the situation. Remember, by showing concern and not haste, the investigator will get more cooperation and a more detailed and useful account of the incident.

(2) When conducting an interview, keep in mind the emotional state or attitude of the victim or witness, especially if the incident is recent. An interview of the victim or person that witnesses a crime may be able to describe items used in the commission of crime that may not otherwise be found or known during the crime scene investigation. The investigator must remain aware that the victim or witness may be traumatized and emotionally affected, and reluctant to disclose any information due to fear of retaliation from the suspect, or may know the suspect and does not want to cause problems for him. Although interviewing a victim or witness that is in an emotional state may be time consuming, a calm, steady, concerned approach will help lessen emotional swings and cause the interviewee to be cooperative for longer periods of time. The concern and consideration an investigator gives to the witness' or victim's injuries or losses will provide the incentive to recall details of the incident. At the same time, a lying victim or witness may be thrown off-guard, and will more likely tell discrepancies and contradictions. A follow-on interview may be necessary to verify the information the investigator received.

c. Determine appropriate questions and prompts.

(1) In order to determine the appropriate approach to the type of questions the investigator must ask, he must be aware of the mannerisms in human behavior and personality. Without being aware of this aspect, the investigator may find it hard to develop a rapport with the interviewee, therefore, and not gain the trust of the interviewee and make it harder to gain the truth of what transpired during the course of the offense. There are two methods in which the investigator can use to question the interviewee, the indirect approach and the direct approach.

(2) An indirect approach to interview is when the victim, witness, or suspect is ready, willing, and able to discuss the incident. In this approach, the interview is initiated by merely asking the interviewee to tell his version of what happened on the date in question. The investigator listens and takes detailed notes paying close attention to both verbal and nonverbal mannerisms in the attempt to see if the interviewee is being deceptive. Questions asked during this type of interview should be open-ended and are not intended to lead the interviewee in any direction with their answers.

(3) The direct approach is used when the investigator is certain of the interviewee's guilt or knowledge of the offense under investigation. The questions asked during this type of interview are direct and to the point. The object is to not let the interviewee get entrenched in a lie, which will make getting to the truth more difficult. The investigator should lay out the facts as he knows them and work on the emotion, logic, and reasoning of the situation. When utilizing this type of interview with a suspect, the process should be well planned and structured.

(4) Both approaches can be used when conducting an interview of either a cooperative or noncooperative person. You should switch from one to the other or continue with one as the situation dictates.

NOTE: REMEMBER, in either approach, always use questions that avoid "yes" or "no" responses. NEVER use leading questions that suggest an expected answer, and DON'T interrupt an interviewee while he's talking.

d. Victim, witness, and suspect interviews.

(1) The victim of a crime should be interviewed as soon as possible after the incident. When the investigator is conducting the interview he must remain cognizant that the victim has just gone through a traumatizing ordeal and must be handled with compassion and care. When a victim of an offense is interviewed they may give information that is partial or fragmented, or may focus only on the most traumatic aspect of the incident. If this is the case, the investigator may interview the victim at a later date when they are more apt to discuss the incident more clearly and able to provide a detailed written statement.

(2) Prior to the interviewing of a victim or witness of a violent crime, the investigator should be familiar with the provisions of Department of Defense Directive (DODD) 1030.1 and Department of Defense Instruction (DODI) 1030.2. These directives implement statutory requirements for victims and witness assistance and provide guidelines to assist victims and witnesses of a criminal offense.

(3) When the investigator is given a statement by a witness or victim, he will likely hear a story that is different from what others have told him. It is important to note that people will lie or omit information when interviewed by law enforcement personnel. This fact is not limited to suspects, but extends to both victims and witnesses. Be aware that this does occur often, and will happen for a number of reasons. Genuine victims or witnesses involved in a criminal offense frequently will not tell information that they feel is embarrassing or will cause other people to prejudge them. Addressing the issues that they will be judged on will place them more at ease and allow the investigator to get more of the truth of what happened during the course of the offense.

(4) Sometimes during the course of an interview the victim of an incident may admit to committing a criminal offense in the course leading up to the offense. It is generally acceptable to let the victim finish his story prior to advising them of their legal rights, as long as the investigator does not ask any question about the offense the victim committed. If the interview cannot continue without addressing the criminal act the victim committed, it is advisable that the victim be administered the rights warning.

(5) There are several types of witnesses that the investigator must be aware of, eyewitness, significant parties, and expert witness, to name a few. The following definitions explain the difference between each one:

(a) A witness is anyone who has direct knowledge of criminal activity.

(b) An eyewitness is anyone who observes criminal activity.

(c) Significant parties are anyone having other than direct knowledge or observations, but bearing information that would tend to prove or disprove aspects of the crime being investigated.

(d) An expert witness is a person who can provide insight as to the significance of the evidence collected and what that evidence indicates with regard to guilt or innocence.

(6) When interviewing witnesses, they should be interviewed one at a time, and be kept separate at all times. This will preclude them from talking to each other and contaminating their testimony by subconsciously relaying information they ascertained from talking to other witnesses. There are times, however, when witnesses are involved in traumatizing incidents, and they may make a request to be with other witnesses they feel comfortable with, such as family members or friends who may have also witnessed the incident. The investigator may consent to this request, with the understanding from all parties that they will not discuss the incident with each other. It would be advisable for the investigator conducting the interview to have another investigator stay with the witnesses to ensure they do not discuss the incident. During the course of the interview, it is generally acceptable for the investigator to take notes and ascertain a written statement from all witnesses.

(7) Prior to talking to a suspect, it must be determined whether to interview or interrogate him. If the investigator is uncertain as to the guilt of the suspect, it is recommended that the method used should be an interview. While conducting the interview, the investigator must remember to maintain a good rapport with the suspect. It has been proven over time that a criminal will more likely confess to someone they like, trust, and respect, than to someone who does not allow them to retain their dignity. During the course of the interview, the investigator must obtain detailed information about the suspect's activities for the periods of time before, during, and after the incident. By obtaining this information, the investigator will be able to determine the accuracy of the suspect's statement, his alibis, and evidence of the suspect's actions that may be in conflict with the facts of the investigation.

(8) During the course of the interview, the investigator should ask questions as well as let the suspect speak freely without interruption. The investigator should also take detailed notes throughout the interview, recording behavioral responses to both nonthreatening and relevant questions. While conducting the interview, the investigator should not ask confrontational questions or make accusations; however, other questions about the suspect's involvement may be explored.

(9) If the investigator feels certain about the suspect's guilt, an interrogation is the tool to use. Because an interrogation is confrontational in nature, the investigator may want to approach the interrogation in a manner that allows for an open discussion. If the investigator feels certain of the suspect's guilt in a criminal offense, he should avoid asking confrontational questions that would allow the suspect to deny knowledge of the incident. Although the interrogation is not an open two-way communication, the investigator must remember to treat the suspect with respect and dignity while not allowing the suspect to interrupt and provide false denials.

e. Verify information. When the investigator is satisfied that his interviewee has given him all the facts he is able to provide, the facts must now be reviewed and verified as complete and accurate based on the personal knowledge of the victim, witness, or suspect. The interviewee must be confident that the facts are not misinterpreted. Upon completion of interviewing the victims, witnesses, and suspects, a sworn written statement should be obtained.

f. Prepare and execute DA Form 2823, Sworn Statement. If the investigator is reasonably sure that the interviewee has told him as much about the incident as possible and the investigator has verified that information, he should prepare and execute a DA Form 2823, Sworn Statement. This document is covered in Part F.

g. Terminate the interview. The investigator should terminate the interview when it is apparent that no more relevant information can be obtained. All information should be verified and a sworn statement should be completed and signed. The investigator should show appreciation for the interviewee cooperation by emphasizing the importance of the information the interviewee shared. The interviewee, who had been lying or concealing some facts, will tend to "lighten up." Watch for additional statements of facts, often the interviewee will loosen up and allow additional information to slip. Finally, don't make any promises or give any hint that the interview will be kept confidential.

h. Evaluate the information.

(1) After the investigator has completed the interview and has obtained a sworn statement, he needs to determine the consistency and reliability of the information. The information is consistent if it compares favorably with other statements, physical evidence, and the investigator's own observations.

(2) The information will be reliable if the interviewee was truthful. Observing the mannerisms and emotional state of the interviewee may indicate that he was concealing or withholding information, or exaggerating facts. However, this is hard to determine, and even harder to prove. If the information seems to be inconsistent or unreliable, the investigator may need to interview the victim or witness again. The investigator can confront the interviewee later with the inconsistencies. Time can calm an emotional victim or witness and cause an interviewee who concealed information before, to forget what he told the investigator the first time. In either event, the investigator's evaluation will allow him to gather more facts and evidence to support the investigation.

PART D - CONDUCT AN INTERROGATION.

Interrogations are a little different than interviews, but generally the same principles apply. An interview is with someone who is ready, willing, and able to talk. An interrogation is with someone who is not able or willing to talk. For this reason, interrogations involve direct questioning. Although each interrogation is unique, they basically are in line with the following steps and techniques that are discussed below.

a. Provide interrogation introduction. The introduction to an interrogation is similar to the introduction for an interview. The investigator should introduce himself to the interviewee by giving him his name, position, and credentials in a friendly courteous manner. Before the interrogation begins, the investigator must state the nature of the offense under investigation, tell the interviewee that he is a suspect of that offense and advise the suspect of his rights (under the provisions of Article 31, UCMJ). The Rights' Warning is printed on DA Form 3881 (Rights' Warning Procedures Waiver Certificate). The DA Form 3881 contains a section of rights for the interviewee to read. It also has a section for him to waive (or not waive) his rights. The procedures and special instructions the investigator needs to warn the suspect of his rights are on the back. If the interviewee has made incriminating statements, or was questioned concerning the crime before being advised of his rights, the investigator must tell him that the statements cannot be used against him. Additionally, the investigator must also state that the statements do not obligate him to answer further questions. A suspect may begin talking to the investigator before he has been advised of his rights, but after the suspect knows who you are, stop him. Read him his rights and inform him that his previous statements cannot be used against him. (If the suspect makes a spontaneous statement before knowing who you are, the statement may be used as evidence in court). A sample form is shown in figure 1-3.

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30; the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY:		Title 10, United States Code, Section 3012(g)	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your Social Security Number is voluntary.	
1. LOCATION	2. DATE	3. TIME	4. FILE NO.
5. NAME <i>(Last, First, MI)</i>		8. ORGANIZATION OR ADDRESS	
6. SSN	7. GRADE/STATUS		
PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE			
Section A. Rights			
<p>The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am suspected/accused: _____</p> <p>Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:</p> <ol style="list-style-type: none"> 1. I do not have to answer any question or say anything. 2. Anything I say or do can be used as evidence against me in a criminal trial. 3. <i>(For personnel subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both. <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.</p> <ol style="list-style-type: none"> 4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below. 			
5. COMMENTS <i>(Continue on reverse side)</i>			
Section B. Waiver			
I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.			
WITNESSES <i>(If available)</i>		3. SIGNATURE OF INTERVIEWEE	
1a. NAME <i>(Type or Print)</i>		4. SIGNATURE OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE			
2a. NAME <i>(Type or Print)</i>		5. TYPED NAME OF INVESTIGATOR	
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR	
Section C. Non-waiver			
1. I do not want to give up my rights <input type="checkbox"/> I want a lawyer <input type="checkbox"/> I do not want to be questioned or say anything			
2. SIGNATURE OF INTERVIEWEE			
ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT <i>(DA FORM 2823)</i> SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED			

DA FORM 3881, NOV 89

EDITION OF NOV 84 IS OBSOLETE

USAPA 2.01

Figure 1-3. Rights Warning Procedure/Waiver Certificate

b. Execute a DA Form 3881, Rights Warning Procedure/Waiver Certificate.

(1) The DA Form 3881 contains the procedure to warn a suspect of his rights. Read the rights warning word-for-word from the back of DA Form 3881 while the suspect reads the front. Make sure that the suspect acknowledges that he understands his rights. You are then ready to execute (fill out) the Waiver Certificate. Once this has been executed, you then have proof that the suspect either waived (gave up) his rights to a lawyer, to keep silent, or did not waive (wants a lawyer and/or doesn't want to talk).

(2) Prior to interview/interrogating a suspect, the investigator must first ask the suspect the following: "Do you want a lawyer at this time?" If the suspect responds with a "yes" the interview/interrogation must be stopped until legal counsel can be present. If the suspect responds "no" the interview/interrogation may continue. The aforementioned statement must be placed in the comments section of the DA Form 3881.

(3) In order to execute the Waiver Certificate, complete the heading section first. This section includes your location, the date, and a file number. The name, social security number, rank or status, and organization or address of the suspect is also part of the heading.

(4) Next, the investigator fills in his identification (who you are with and in what capacity). This is done on the first two lines under the rights section. Also, write the offense under investigation. The offense line must contain all offenses discussed. List the most serious offense first with the other following by their degree of seriousness. A sample of the completed top half (heading and rights section) of a DA Form 3881 is shown in figure 1-3.

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE			
For use of this form, see AR 190-30; the proponent agency is ODCSOPS			
DATA REQUIRED BY THE PRIVACY ACT			
AUTHORITY:		Title 10, United States Code, Section 3012(g)	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your Social Security Number is voluntary.	
1. LOCATION	2. DATE	3. TIME	4. FILE NO.
Fort Leonard Wood, MO	1 Jan 02	1430	0012-02-CID901
5. NAME (Last, First, MI)		8. ORGANIZATION OR ADDRESS	
WRIGHT, John D.		HHC, 26th Infantry Battalion	
6. SSN	7. GRADE/STATUS		
124-76-9834	E5/RA		Fort Leonard Wood, MO 65473

Figure 1-3. Completed Top Half of DA Form 3881

(5) After waiving rights, the time block must be filled in and initialed along with any mistake or cross outs appearing on the form. This is done by the interviewee.

(6) Many offenses can occur in one incident, such as aggravated assault in an attempted murder. Enter the most serious offense (attempted murder) on the offense line, with aggravated assault understood to be the "lesser included offense." There are two exceptions to entering only one offense: house-breaking and burglary. The matter of burglary versus housebreaking must be resolved and clarified. If you are unsure of the time the offense occurred, list burglary as housebreaking, this is a lesser offense of burglary. See figures 1-4 and 1-5 for an example of DA Form 3881, Rights Warning Procedure/Waiver Certificate.

PART II - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ol style="list-style-type: none"> a. Your official position. b. Nature of offense(s). c. The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows: "Before I ask you any questions, you must understand your rights."</p> <ol style="list-style-type: none"> a. "You do not have to answer my questions or say anything." b. "Anything you say or do can be used as evidence against you in a criminal trial." c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer 	<p>can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both." - or - (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins." d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate." Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" (If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)</p> <p>"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent (<i>i.e.</i>, fewer than 30 days ago), obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)</p>	<p>"Do you want a lawyer at this time?" (If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)</p> <p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" (If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p> <p>PRIOR INCRIMINATING STATEMENTS:</p> <ol style="list-style-type: none"> 1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions. 	<p>2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.</p> <p>NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p> <p>WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")</p>
<p>COMMENTS <i>(Continued)</i></p>	

REVERSE OF DA FORM 3881

USAPA V2.01

Figure 1-5. Waiver Section of DA Form 3881

(7) The charge of burglary or housebreaking must have an accompanying offense, such as arson, robbery, aggravated assault, etc. It is not sufficient to have just the offense of housebreaking or burglary listed. Consult with the local SJA if there is any question as to the offense.

(8) The waiver/non-waiver section makes up the rest of the Waiver Certificate. There are three ways to complete the section based on the three choices that a suspect has. These are shown in figure 1-6.

SWORN STATEMENT			
For use of this form, see AR 190-45; the proponent agency is PMG.			
PRIVACY ACT STATEMENT			
AUTHORITY:		Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).	
PRINCIPAL PURPOSE:		To provide commanders and law enforcement officials with means by which information may be accurately identified.	
ROUTINE USES:		Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.	
DISCLOSURE:		Disclosure of your social security number is voluntary.	
1. LOCATION	2. DATE (YYYYMMDD)	3. TIME	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME			7. GRADE/STATUS
8. ORGANIZATION OR ADDRESS			
9.			
I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:			
10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT		PAGE 1 OF _____ PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"			
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE BE INDICATED.			

Figure 1-6. Sworn Statement

(a) The suspect consents to the interrogation without a lawyer. The suspect signs the waiver section first, followed by the investigators' signature. A witness then signs the section.

(b) If the suspect does not wish to be questioned, nor wants a lawyer, he checks which reasons apply in the non-waiver section, and signs the non-waiver.

(c) The suspect may refuse to sign the certificate, but does agree to waive his rights. The investigator must note that the suspect understands his rights and does not want a lawyer. Also note that the suspect wants to discuss the offense(s), or make an oral statement, but refuses to sign the Waiver Certificate (indicate, in the comments block on the DA Form 3881, the refusal to sign).

(9) Whether or not the interrogation can continue depends on how the Waiver Certificate was completed. An interrogation can continue if the suspect signs the waiver or if he orally waives his rights but refuses to sign the waiver. If he is not willing to talk, and signs the non-waiver section, stop the interview or wait for a lawyer, depending on the circumstances. Remember that a suspect not in custody can leave at any time and will probably do so if he does not want to cooperate. See Appendix A, figure 1-5 for an example of the Waiver Section of DA Form 3881.

Burglary

- a. Must be breaking and entering a dwelling.
- b. Must occur at nighttime.
- c. Must be intent to commit specific criminal offenses Articles 81 through 134.

Housebreaking

- a. Unlawful entry (not necessarily "breaking").
- b. Day or night.
- c. Building or structure (could be dwelling).
- d. Intent to commit any criminal offense.

c. Consider and provide for suspect's physical needs. During the course of the interrogation, the investigator must consider the suspect's physical needs. The investigator must ensure that needs for food, water, rest, and personal hygiene are afforded the suspect. The investigator must be able to show the court that he provided for these needs. Any sign of ignoring or withholding a suspect's request can suggest that a statement was made under duress. However, providing for the suspect's physical needs does not mean that an interrogation should be controlled by him. The investigator should respond to requests that he feels are appropriate and reasonable so that he can preserve the continuity and control of the interrogation. Thus, an occasional request should be met. Continual interruptions by requests should be avoided.

d. Determine appropriate interrogation approach. There are two primary approaches to employ in an interrogation (just as in an interview), the direct and indirect approaches. As stated previously, if the investigator feels the guilt of the suspect is reasonably certain, based on overwhelming evidence, and/or previous testimony, then the direct approach is more appropriate. Here, the investigator should attempt to determine why the suspect committed the offense rather than if he did. This can be done by stressing the evidence and testimony against the suspect. Use the indirect approach when guilt is doubtful or uncertain. Have the suspect give a detailed account. The investigator can compare known facts to his account, and can successfully confront the suspect with his own discrepancies and distortions. Consistently and persistently

presenting a suspect with evidence and testimony can cause him to correct the discrepancies. The suspect will thereby make a statement that is in accordance with previously known facts. It is important that the investigator refrains from coercion or leading questions that suggest an expected answer. Here is an example of when to use the two approaches.

(1) Suppose tools were stolen out of a tool room. Only one person had access to the room at that time. The guilt of that person is reasonably certain. The investigator would use a direct approach to determine why the suspect did it, and stress the overwhelming evidence against him.

(2) Suppose, however, three people had access to the tool room. All three people are suspects. The investigator would use an indirect approach by having each person tell his story. Refer to the reason(s) why they are suspect. Evaluate their story while they are talking in order to detect discrepancies with known facts (location, amount of tools, or time period). Any hint of inconsistency or discrepancy is the key to further questioning.

e. Determine appropriate interrogation techniques. Interrogation methods are based on the certainty of guilt of a suspect. By utilizing different proven techniques, the investigator can sometimes seem compassionate and understanding of the suspect's actions and reason for committing the crime. This in turn may cause the suspect to lower his defenses and be more cooperative with the investigator by providing additional information as to why the crime was committed and, if he committed the crime himself, a confession. Interrogation approach techniques are the way in which the questions are phrased. If a suspect is a first offender or has committed the offense out of emotion (such as anger, passion, or jealousy), a sympathetic technique would be useful. When the investigator utilizes the sympathetic approach, he employs several rules and gains the confidence of the suspect and assists him in "saving face." The questions that the investigator needs to ask should be worded so that they minimize moral implications and avoid discussions of the punitive outcomes of the crime. If the interrogation seems to bog down, point out that the suspect is showing signs of stress that indicate his guilt. Such subtle suggestions, while not influencing the contents of the suspect's statement, will help to encourage a suspect to give an accurate statement.

(1) An example might be: "I can understand why you hit that guy," (which helps the suspect to save face), as opposed to, "You can get into a lot of trouble for hitting that guy," (which points out the punitive outcome). On the other hand, suppose the suspect appears confident in his alibi, seems to feel no remorse, or committed an unemotional crime. A technique oriented to logic and reasoning is useful. Logic and reasoning seem to help with a suspect who shows no remorse or displays arrogance about the charges against him. The investigator's attitude in confronting this type of suspect is to convince the suspect that guilt can be or has been established. Point out the futility of denying guilt and show the facts that establish his guilt. Refute his alibis and contradictions with established evidence and testimony. Eventually, the investigator should be able to get to the root of the story.

NOTE: Remember, when dealing with suspects, do not use leading questions that suggest an expected answer, and do not promise anything.

(2) These are only sample techniques that you could use. The personality of the investigator and the known circumstances of the incident will play a major role in the approach technique the investigator uses. Remember, the investigator can use any technique that is legal and will not induce an innocent person to confess. There are other techniques to get a suspect to make a truthful statement. Some examples are:

- (a) Claim the victim exaggerated the incident.
- (b) Present a hypothetical story.

- (c) Play one suspect against another.
- (d) Offer excuses for the suspect.
- (e) "Condemn the victim" (assert that the victim probably contributed to the crime).

(3) FM 3-19.13 outlines additional approach techniques. Try the different techniques in order to find some that you are comfortable with. You should also be familiar with them so that if you observe an investigator employing a technique, you will recognize what he is doing.

f. Terminating the interview. The investigator should terminate the interrogation as outlined in Part C. The procedures and requirements are the same in the evaluation of information obtained. A sworn statement is now required to be composed and the investigator must clarify any misunderstanding and verify confessions. If you need a refresher, reread Part C.

PART E - SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

1. Prior to and while conducting interviews and/or interrogations, all MP/MPI must be aware of the Army Sexual Assault Prevention and Response Program and the restrictions and limitations that it may impose on conducting interviews of victims of sexual assault and those that may have committed sexual assault.

a. The purpose of the Sexual Assault Prevention and Response Program is to reinforce the Army's commitment to eliminate incidents of sexual assault through a comprehensive policy that centers on awareness and prevention, training and education, victim advocacy, response, reporting, and accountability. Army policy promotes sensitive care and confidential reporting for victims of sexual assault and accountability for those who commit these crimes.

b. The CID will generally have investigative jurisdiction over sexual assault cases; however, as first responders, MP/MPI or DAC detectives must be aware of specific sections that pertain to investigations and interviews. Currently, there are two methods in which a service member may report sexual assault: restricted and unrestricted.

(1) Restricted reporting. Service members who are sexually assaulted and desire restricted reporting under this policy should report the assault to the Sexual Assault Response Coordinator (SARC), victim advocate, or a healthcare provider. No investigative action will be initiated. Restricted reporting allows a Soldier who is a sexual assault victim, on a confidential basis, to disclose the details of his assault to specifically identified individuals and receive medical treatment and counseling, without triggering the official investigative process.

(2) Unrestricted reporting. Unrestricted reporting allows a Soldier who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his allegation, to use current reporting channels (e.g., chain of command, law enforcement, or he/she may report the incident to the SARC or the on-call Victim Advocate). Upon notification of a reported sexual assault, the SARC will immediately notify a Victim Advocate. Additionally, with the victim's consent, the healthcare provider shall conduct a forensic examination, which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.

2. The investigating authority will ensure that victims and witnesses are notified of their rights through a completed Victims and Witnesses of Crime Form 2701. Ensure that the victims and witnesses are informed of

the status of the investigative activity, according to the procedures established by the SARC, and to the extent that such actions will not jeopardize an ongoing investigation, and the availability of services.

3. When a sexual offense has been committed on the installation, the provost marshal will be responsible for and ensure the following actions are taken:

a. Respond to all incidents of sexual assault reported to law enforcement.

b. Ensure that law enforcement personnel responding to a sexual assault incident are trained in sensitivity to victims of sexual assault, victim assistance and resources, confidentiality, and related law enforcement investigative responses.

c. Immediately report incidents of sexual assault to the SARC, and escort victims from the crime scene when requested by the victim, their chain of command, or the CID.

d. Ensure that victims and witnesses are notified of their rights through a completed Victim and Witnesses of Crime form, DD Form 2701, when the Installation Provost Marshal retains investigative activity to the extent that such actions will not jeopardize an ongoing investigation.

e. Follow the procedures of Army Regulation (AR) 195-5 (Evidence Procedures) and AR 190-45 (Law Enforcement Reporting) in documenting and reporting all reports of criminal activity.

f. Support data collection responsibilities of the installation SARC for sexual assaults to the extent that such actions will not jeopardize an ongoing investigation or the rights of a potential subject in an ongoing investigation.

g. Seek to establish a formal Memorandum of Understanding (MOU) with civilian law enforcement agencies to establish or improve the flow of information between their agencies. MOUs can be used to clarify jurisdictional issues for the investigation of incidents, to define the mechanism whereby local law enforcement reports involving active duty service members will be forwarded to the appropriate law enforcement office, and to foster cooperation and collaboration between the installation law enforcement agency and local civilian agencies.

h. Ensure that disposition reports by commanders are entered into the Centralized Operations Police Suite (COPS) and forwarded to the Director, U.S. Army Crime Records Center.

i. Provide a representative with the appropriate experience and level of expertise to serve on the Sexual Assault Review Board (SARB).

j. Support the submission of sexual assault data into the Sexual Assault Data Management System (SADMS).

4. Sexual Assault Response Coordinators (SARCs).

a. (1) MP/MPI or DAC detectives may receive reports of sexual assault from or provide them to, the installation SARC and should be aware of the responsibilities of the SARC.

b. (2) SARCs will ensure that victims are properly advised of their options for restricted and unrestricted reporting. Ensure that victim acknowledges in writing his/her preference for restricted or unrestricted reporting. If the victim chooses the restricted option, the victim must acknowledge in writing that they understand

restricted reporting may limit the ability of the Army to prosecute the assailant and an understanding of why Army policy favors unrestricted reporting.

5. Primary responders to sexual assault incidents will receive the same baseline training throughout the DOD, to ensure that any Service member who is assaulted will receive the same level of response regardless of Service component. Training should emphasize coordinating victim support services is a team effort and to be effective all the team members must be allowed to do their job and must understand the role of the others on the team. Each responsible first responder agency listed below will implement DoD's baseline training standards –

- a. Healthcare (responsible agency U.S. Army Medical Command [MEDCOM])
- b. Law Enforcement and Criminal Investigators
- c. Judge Advocate General (JAG) Officers
- d. Chaplains
- e. SARCs
- f. Installation and Unit Victim Advocates (IUVA)

6. Regardless of whether the service member elects restricted or unrestricted reporting, confidentiality of medical information will be maintained in accordance with current guidelines in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

7. In cases where victims elect restricted reporting, the prohibition on disclosing covered communications is waived to the following persons or entities when disclosure would be for the following reasons:

- a. Command officials or law enforcement, when disclosure is authorized by the victim in writing.
- b. Command officials or law enforcement when disclosure is necessary to prevent or lessen a serious and imminent threat to the health and safety of the victim or another.
- c. When disclosure is ordered by or is required by military or civilian courts of competent jurisdiction. When disclosure is ordered by or is required by federal or state statute where the installation is located.

8. In the event that information about a sexual assault is disclosed to the commander from a source independent of the restricted reporting avenues, or to law enforcement from other sources, the commander will report the matter to law enforcement, and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his sexual assault to persons outside the protective sphere of the persons covered by this policy may result in an investigation of the allegations.

9. This policy does not create any actionable rights for the alleged offender or the victim. Covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under the Uniform Code of Military Justice (UCMJ), loss of credentials, or other adverse personnel or administrative actions.

PART F - DOCUMENT AN INTERVIEW OR INTERROGATION.

It is important for the investigator to correctly document sworn statements obtained during an interview or interrogation. Documentation that is incorrect is useless. Documentation that is legally and accurately completed can be vital evidence. The official documentation of an interview or interrogation is DA Form 2823, Sworn Statement. It is completed at the end of the interview/interrogation (See figure 1-6 for an example of DA Form 2823 and figure 1-7 for an example of the heading of DA Form 2823 correctly filled out).

SWORN STATEMENT			
For use of this form, see AR 190-45; the proponent agency is ODCSOPS			
PRIVACY ACT STATEMENT			
AUTHORITY:	Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).		
PRINCIPAL PURPOSE:	To provide commanders and law enforcement officials with means by which information may be accurately identified.		
ROUTINE USES:	Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.		
DISCLOSURE:	Disclosure of your social security number is voluntary.		
1. LOCATION Fort Lewis, WA	2. DATE (YYYYMMDD) 2002/09/11 <i>AC</i>	3. TIME 1443 <i>AC</i>	4. FILE NUMBER 0033-02-CID018-32656
5. LAST NAME, FIRST NAME, MIDDLE NAME FISHAL, Art Edward	6. SSN 232-33-4544	7. GRADE/STATUS E7/AD	
8. ORGANIZATION OR ADDRESS B Co, 3/47 Infantry Battalion, Fort Lewis, WA 98433			

Figure 1-7. Completed Heading of DA Form 2823

1. Prepare the Heading of DA Form 2823, which identifies the statement, and includes the following information:

- a. Location where statement is made.
- b. Date of the statement.
- c. File number of the case.
- d. Name, Social Security Number (SSN), grade/status, and organization or address of the person making the statement.
- e. The time the statement is made is filled in and initialed when the statement is signed.

2. Prepare the statement.

a. After the interview or interrogation has been completed, summarize the results. This summary is the statement and is recorded on DA Form 2823. The investigator utilizes his notes or an electronic recording of the interview to provide the facts. All statements are made in the first person, since it is a record of the interviewee's statement. The last statement of a sworn statement and interrogation should read:

(1) Q: Do you have anything you wish to add concerning the matter under investigation?

(2) A: No. ///END OF STATEMENT///

b. The investigator can change the verbiage and grammar to make it readable, but quotations that are material to the case must be kept verbatim.

c. There are several ways to present the information on DA Form 2823.

(1) In the NARRATIVE method, the statement is written in the interviewee's own words. This method is usually used with cooperative victims and witnesses.

(2) In the QUESTION AND ANSWER method, specific questions and the interviewee's responses are recorded. This limits the information in the statement to relevant information only. Its main disadvantages, however, are that it is time consuming and may suppress valuable information.

(3) The COMBINATION method involves both the narrative and the question and answer methods. In this instance, the narrative would be a recap of the interviewee's story in his words. The questions and answers would fill in any gaps not covered by the interviewee's narrative.

d. When typing the statement, mistakes may occur. These must be handled in one of two ways:

(1) If the investigator catches the mistake right after he types it, he should type slash marks over the mistake, leave a few spaces for initials, retype the correct word(s), and continue.

(2) If the investigator catches the mistake after he's typed the statement, a line should be drawn through the mistake, (only once so that it is still readable. Otherwise, it looks like the investigator is trying to conceal something), then print the correct word(s) above the mistake, and the have the interviewee initial the mistake. **DO NOT ERASE OR COVER UP A MISTAKE.**

e. The investigator needs to ensure that the interviewee initials all of the corrections, as this is supposed to be the interviewee's statement. The interviewee must acknowledge that whatever changes were made to his statement are correct. Failure to have an interviewee initial a correction or change may cause problems when it is introduced in court.

3. Execute an affidavit

a. The affidavit is the last section of DA Form 2823 (see figure 2-9). This is the section in which the interviewee acknowledges that the statement was given voluntarily, that any mistakes have been corrected, and that the number of pages is correct (no pages left out). To execute an affidavit, the investigator must:

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.
As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

(Name)

(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

(Name)

(Telephone Number)

In regard to the prosecution, contact the legal office below:

(Name)

(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:


(Name)

(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
<http://dod.mil/vwac>

DEPARTMENT OF DEFENSE



INITIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

Reset

DD FORM 2701, MAY 2004 Previous edition is obsolete.

Figure 1-9. DA Form 2701,
INITIAL INFORMATION VICTIMS AND WITNESSES OF CRIMES

- (1) Administer an oath.
- (2) Have the interviewee fill in the time and initials when the statement is to be signed.
- (3) Sign it himself.
- (4) Have a witness sign it. (See figure 1-8 for an example of the Affidavit Section of DA Form 2823.)

AFFIDAVIT	
<p>I, <u>Art E. Fishal</u>, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE <u>3</u>. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.</p>	
<p>WITNESSES: <u>Shaun M. Cummins</u> <u>SA SHAUN M. CUMMINS</u> <u>FORT LEWIS RA, CID</u> <u>FORT LEWIS, WA 98643</u> <small>ORGANIZATION OR ADDRESS</small></p>	<p style="text-align: center;"><u>Art E. Fishal</u> <small>(Signature of Person Making Statement)</small></p> <p>Subscribed and sworn to before me, a person authorized by law to administer oaths, this <u>11th</u> day of <u>September</u>, 2002 at <u>Fort Lewis, WA 98643</u></p> <p style="text-align: center;"><u>Noel A. Thompson</u> <small>(Signature of Person Administering Oath)</small></p> <p><u>SA Noel A. Thompson</u> <small>(Typed Name of Person Administering Oath)</small></p> <p><u>Article 136 UCMJ</u> <small>(Authority To Administer Oaths)</small></p>
<p><small>INITIALS OF PERSON MAKING STATEMENT</small> <u>AEJ</u></p>	<p>PAGE <u>3</u> OF <u>3</u> PAGES</p>
<p><small>PAGE 3, DA FORM 2823, DEC 1998</small> <small>USAPA V1.03</small></p>	

Figure 1-8. Affidavit Section of DA Form 2823

b. The oath you must administer is:

"Do you swear or affirm that the information given by you in this statement is true and correct to the best of your knowledge, so help you God?"

c. The interviewee must answer in the affirmative and complete the signature. If he objects to the use of the word "God," you can leave out that word from the oath. Note that the authority for you to administer the oath is Article 136, UCMJ. This must be entered on the affidavit. Remember to have the interviewee enter the time in the heading when he signs the affidavit.

PART G - VICTIM/WITNESS ASSISTANCE PROGRAM.

1. The military justice system is designed to ensure good order and discipline within the Army and also to protect the lives and property of members of the military community and the general public consistent with the fundamental rights of the accused. Without the cooperation of victims and witnesses, the system would cease to function effectively. Accordingly, all persons working within and in support of the system, that is, commanders, SJAs, law enforcement and investigative agencies, must ensure that victims and witnesses of crime are treated courteously and with respect for their privacy. In those cases in which a victim has been subjected to attempted or actual violence, every reasonable effort should be made to minimize further trauma. Victims must be treated with care and compassion, particularly in circumstances involving children, domestic violence, or sexual misconduct.

2. Law enforcement personnel must be familiar with all such agencies and programs to ensure that necessary services for both victims and witnesses are provided. Law enforcement personnel include but are not limited to, patrolmen, investigators, and special agents. Other federal agencies and personnel are involved in the program such as the SJA, unit commanding officers, Noncommissioned Officers (NCOs), and corrections facility personnel. Within the military system, most installations are expected to provide required services without referral to outside agencies.

3. The objectives of the policies and procedures that govern the Victims/Witness Assistance Program are to:

- a. Mitigate, within the means of available resources and under applicable law, the physical, psychological, and financial hardships suffered by victims and witnesses of offenses investigated by DA authorities.
 - b. Foster the full cooperation of victims and witnesses within the military criminal justice system.
 - c. Ensure that victims of crime and witnesses are advised of and accorded the rights described in this chapter, subject to available resources, operational commitments, and military exigencies.
4. Identification and right of victims and witnesses.
- a. Upon receiving notification of a crime having been committed, no matter how minor or major the criminal act was, the investigator at the most earliest opportunity should identify the victims and witnesses of the criminal act. When conducting an interview with both victims and witnesses, it is mandatory that they be informed of their rights to receive the services described in AR 27-10 chapter 18, and the name, title, official address, and telephone number of the Victim Witness Liaison (VWL) and how to request assistance from the VWL in obtaining the services needed. Additionally, it is also a mandatory requirement during the interviewing process to fill out and present to the victim/witness the DD Form 2701. This exchange of information is required in all cases, regardless of maximum punishment under the UCMJ or other statutory authority, or intended disposition of the offense. In cases where the victim is no longer located at the military installation where the alleged crime occurred, the victim should be referred to the nearest available VWL, who may not necessarily be the VWL where the alleged crime occurred.
 - b. As provided for in 42 United States Code (USC) 10601 et seq, and DODI 1030.2, a victim of a crime has the following rights:
 - (1) The right to be treated with fairness, dignity, and a respect for privacy.
 - (2) The right to be reasonably protected from the accused offender.
 - (3) The right to be notified of court proceedings.
 - (4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial, or for other good cause.
 - (5) The right to confer with the attorney for the Government in the case.
 - (6) The right to restitution, if appropriate.
 - (7) The right to information regarding conviction, sentencing, imprisonment, and release of the offender from custody.
5. Medical, social services, and the military criminal justice process. As the crime Investigator or DAC detective, you will need to inform the victim where to receive emergency medical care and social service support. If the victim is suffering from or indicating injury or trauma, refer the victim to the nearest available medical facility for emergency treatment. Additionally, victims should be advised of stages in the military criminal justice system, the role that they can be expected to play in the process, and how they can obtain additional information concerning the process and the case.

6. Victim/witness intimidation/protection. As part of the interview process, inform the victim/witness that their interests are protected by administrative and criminal sanctions. In the criminal context, for example, 18 USC sections 1512 and 1513 make tampering with or retaliation against a victim or witness punishable under Federal law; intimidation and threats to victims or witnesses is punishable under UCMJ, Article 134. Obstruction or attempted obstruction of justice and subornation of perjury are also offenses under the UCMJ. Victims and witnesses should be further advised that any attempted intimidation, harassment, or other tampering should be promptly reported to the MP, so that their complaints can be promptly investigated and appropriate action taken. In cases where the life, well-being, or safety of a victim or witness is jeopardized by his participation in the criminal investigation or prosecution process, inform the victim/witness to notify the MP immediately so a course of action can be taken to ensure their safety and wellbeing.

7. Initial information for victims and witnesses of crimes (DD Form 2701).

a. Procedures for filling out DD Form 2701 are simplistic in nature, and mandatory by regulation. Investigators should keep on file the names and phone numbers for the agencies on the installation that are a part of the Victim/Witness Assistance Program. Information needed to fill out the form consists of:

- (1) Investigators' name and phone number so they can check on the status of the investigation.
- (2) Victim/witness responsible official and phone number for available assistance.
- (3) Name and phone number of the legal office that will be handling the prosecution of the case.
- (4) The state office for Criminal Victim Compensation in regards to compensation for medical or other expenses.

b. Further familiarization and guidance of Victim/Witness Assistance can be found in AR 27-10, Chapter 18, Military Justice, as well as information on DD Form 2701. (See figures 1-9 and 1-10 for a copy of DD Form 2701.)

<p>Initial Information For Victims and Witnesses of Crime</p>	<p>If You Were Injured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist.</p>	<p>If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, you can contact your employer or Commanding Officer to discuss the importance of your role in the case.</p>
<p>Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance at your installation can help.</p>	<p>If You Were a Victim of Spouse or Child Abuse. For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.</p>	<p>If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.</p>
<p>We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is <u>greatly</u> needed and appreciated.</p>	<p>Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.</p>	<p>Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.</p>
<p>A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.</p>	<p>If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.</p>	<p>Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.</p>
<p>If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.</p>		<p>The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as</p>

DD FORM 2701 (BACK), MAY 2004

Figure 1-10. Part B, DD Form 2701, INITIAL INFORMATION VICTIMS AND WITNESSES OF CRIMES

SUMMARY

This subcourse provided you with an overview of the various facets of investigation procedures, policies, and techniques. It included specific information on records, files, and forms and the importance of maintaining them.

Lesson 1 PRACTICE EXERCISE

INTRODUCTION

You have just finished reading the instructional material for Lesson 1. These lessons covered the steps and techniques to interview and interrogate witnesses, suspects, and victims. It is now time to check your comprehension of the lesson. This is done by completing the practice exercise below.

All of the questions are multiple-choice and are intended to measure your comprehension of interviews and interrogations. There is only one correct answer to each question. Try to answer all of the questions without referring to the lesson materials.

When you have completed all of the questions, turn the page and check your answers against the correct responses. Review any questions you have missed or do not understand. When you have completed your review, continue to the next lesson.

GENERAL

For questions 1 – 4 refer to the statement below.

CPL Danielson is suspected of driving his Volkswagen, while drunk, into the side of a parked car. According to two witnesses, PFC Andrews and PFC Baker, he reportedly ran from the accident. Two hours after the incident, CPL Danielson reported that his Volkswagen had been stolen.

You are preparing to talk with one of the witnesses, PFC Andrews. He had called in soon after the accident occurred. Which of the following questions would be appropriate for the beginning of the interview/interrogation?

- "Describe the person you saw driving the car."
- "Have you ever been in an accident before?"
- "Did you know what time you called us about the accident?"
- "Did you have anything to drink that day?"

After your introduction, which of the following statements would be most appropriate to start your talk with PFC Andrews?

- "Did you see CPL Danielson driving the car?"
- "Are you sure you saw this incident?"
- "Tell me what you saw, in your own words."
- "So what makes you think that CPL Danielson was drunk?"

You have PFC Baker, the second witness, come in to talk with you. He does not seem willing to talk about the incident. Which of the following approaches would you use?

- Logic and reasoning.
- Indirect.
- Sympathetic.
- Direct.

You present CPL Danielson with a DA Form 3881, Waiver Certificate. Danielson says he doesn't need a lawyer, and says he wants to talk freely. He says he'll sign any form. What should you do?

- Have him sign the waiver and continue your interview/interrogation.
- Have him sign the non-waiver and continue the interview/interrogation.
- Have him sign the waiver and call a lawyer (just in case).
- Have him sign the non-waiver and note that he is willing to talk.

5) Which of the following agencies has primary investigative jurisdiction for sexual assault cases that occurred on a federal installation involving sexual assault victims?

- a) Unit commander.
- b) Local Police.
- c) Military Police Investigations (MPI).
- d) Criminal Investigation Division (CID).

6) PFC Susan Smith told her roommate that she had been raped, but did not want to file charges, but needed to talk to someone. PFC Smith's roommate told her that under restricted reporting she could report it to _____ without an investigation being done.

- a) Military police (MP).
- b) Her commander.
- c) Inspector general.
- d) Sexual assault response coordinator.

7) Later that day, PFC Smith decides to speak with Law Enforcement and you are conducting the interview. It is mandatory that you inform her of her rights under the _____.

- a) Uniform Code of Military Justice (UCMJ).
- b) Not mandatory, because she is the victim.
- c) Victim/Witness Assistance Program.
- d) Crime Victim Compensation Program.

8) As provided for in 42 USC 10601 et seq, and DODI 1030.2, a victim of a crime has the right to _____.

- a) 24-hour protection.
- b) The right to be notified of court proceedings.
- c) The right to confer with the attorney for the defense.
- d) The right to question the offender.

9) PFC Smith's roommate PVT Jones asked to speak to the unit commander CPT Black and told him that PFC Smith had been raped by PVT Johnson, but PFC Smith did not want to make a report of it and she did not know what to do. What action, if any, can CPT Black take?

- a) Advise PVT Jones to keep quiet about it to avoid problems.
- b) None, PFC Smith does not want to make a report.
- c) Initiate an investigation.
- d) None, it is hearsay evidence.

Lesson 1 EXERCISE SOLUTIONS

ANSWER KEY AND FEEDBACK

Item Correct Answer and Feedback

1. a. "Describe the person you saw driving the car."

Prepare Interview Outline . . . see page 1-6, Activity 2 a3(e).

2. c "Tell me what you saw, in your own words."

Provide Interview Introduction . . . see page 1-10, Activity 3 a(1).

3. d. Direct.

Determine Appropriate Questions and Prompts . . . see page 1-10, Activity 3 a(3).

4. a. Have him sign the waiver and continue your inquiry.

The waiver/non-waiver section makes up . . . see page 1-15, Activity 4 a(2)(h).

5. d. Criminal Investigation Division (CID).

The CID will generally . . . see page 1-18, Activity 5 a(2).

6. d. Sexual Assault Response Coordinator (SARC).

Restricted Reporting . . . see page 1-18, Activity 5 a(2)(a).

7. c. Victim/Witness Assistance Program.

Identification and right of victims and witnesses . . . see page 1-23, Activity 7 d.

8. b. The right to be notified of court proceedings.

As provided for in 42 USC 10601 et seq . . . see page 1-23, Activity 7 d(2).

9. c. Initiate an investigation.

In the event that information about a sexual assault is disclosed . . . see page 1-20, Activity 5 h.

LESSON 2

APPREHENSIONS AND SEARCHES INCIDENTAL TO APPREHENSIONS

OVERVIEW

LESSON DESCRIPTION:

This subcourse is designed to describe how to prepare and conduct an investigation, as well as a clear understanding of the laws and policies involved with apprehension and search incidental to apprehension.

TERMINAL LEARNING OBJECTIVE:

ACTION: Direct the apprehension of suspected law or regulation violators and the conduct of the subsequent searches incidental to apprehension.

CONDITION: As an assigned MP Investigation Section Officer, you are responsible for assuring that the interviews, apprehensions, and section administrative activities are properly performed by section personnel.

STANDARD: Demonstrate competency of this task by achieving a minimum passing score of 70 percent on the final subcourse examination.

REFERENCES: FM 19-10, FM 3-19.13, AR 190-14, AR 190-45, AR 190-22, and MCM.

INTRODUCTION

This lesson will teach you laws and considerations necessary for making apprehensions and subsequent searches. You will also learn to identify the procedures and techniques used in making apprehensions and conducting searches.

PART A - Laws and Considerations for Apprehensions and Searches Incidental to Apprehension.

1. Before any MP investigator makes an apprehension or a search, some information about the laws, or rules of conduct, is important. Without knowledge of the laws and procedures for making apprehension and searches, mistakes could be made. When these are made, evidence from an apprehension or search may not be accepted into a court of law. The breaking of a law is called an offense. Different offenses have different penalties. Overall there are three categories in which broken laws fall into:

- a. A felony. An offense that has a penalty of death or imprisonment for more than 1 year.
- b. A misdemeanor or minor offense is any offense that is not a felony.
- c. A breach of the peace is a public offense. Violence that causes (or could cause) disturbance of public order; any act that used or threatens to use force toward a person or his property.

2. Laws, limits, and source of authority.

a. The Fourth Amendment of the U.S. Constitution protects the right of the people from unreasonable search and seizure. The Constitution says that you must have "probable cause" in order to get a search warrant.

b. A search warrant is a written order given by a legal authorized authority that gives law enforcement personnel permission to search in a specific area of a persons residence, vehicle, place of business, or anywhere the investigator believes evidence of a crime may be that is owned or controlled by a private citizen or corporation.

c. To get a search warrant, the investigator must request one. This is done by submitting a written affidavit to an authorized person explaining why the search warrant is needed. The written statement should have:

- (1) An explanation of the facts of a committed offense.
- (2) An explanation of "probable cause" to believe that an offense was committed.

(a) The facts that lead to "probable cause"; why the investigator believes that the person, place, or thing to be searched is connected with the offense.

(b) "Probable cause" to believe that whatever the investigator is looking for is on the person, place, or thing to be searched.

(c) The investigator must also describe in detail the person, place, or thing that will be searched. The exact things he is looking for must be listed in the request for the search warrant.

(3) The search warrant and written affidavit are then signed. DA Form 3745-R, Search Warrant, is found in AR 27-10.

(4) Sometimes a search warrant is not needed to make a legal search. The following examples will show when you do not need a search warrant:

(a) When making a search immediately after apprehending someone.

(b) When making a search to prevent the disposal of criminal goods.

(c) When the person being searched has given his permission to go ahead and search.

(5) Evidence taken from searches made legally is acceptable in a court of law. Civil Jurisdiction: Under the Constitution, each state has authority over the people who are in that state. Each state makes its own laws deciding which offenses will be felonies and which offenses will be misdemeanors. The state, county, local police agencies and courts are responsible for enforcing the laws of their state. The Constitution also gives the federal government the power to make laws; for example, the federal government can make laws to control the land that belongs to the military. These laws are enforced through federal courts and other federal agencies.

3. Citizen's Arrest. It is the duty and the right of all private citizens to help in keeping the peace. This includes military personnel. Military personnel such as the MP have the power to apprehend people who are committing a felony, a misdemeanor, or who are breaking the peace (how much authority a private citizen has to make an apprehension depends on the local law).

a. Private Citizens Conducting Searches. The Constitution permits a private person to conduct a search. A search conducted by a private person must not:

(1) Be part of an official investigation.

(2) Have been ordered by government agents who work in law enforcement.

(3) Have been ordered or done by those who have disciplinary power over the person being searched.

b. The following persons are authorized to order searches: Military judges, commanders, or a person acting under the authority of the commander, can order searches of persons, places, and things under their control. They must have "probable cause" to believe an offense punishable under the UCMJ has happened. The authorized person must also have "probable cause" to believe that items that can be taken as evidence are on the person or in the place to be searched (AR 190-22). This authority is good for:

(a) All property owned or under U.S. control.

(b) Property located within a military installation, foreign, or occupied country. The land must be owned, used, or occupied by people who are under the control of the UCMJ.

c. Federal magistrates have powers similar to military judges. However, the court they work for limits their powers.

d. The following persons are authorized to search: MPs, MPI, DAC detectives/investigators, CID special agents, and other personnel authorized to conduct searches.

(1) The Congress of the United States has the constitutional power to make rules for the Armed Forces. Congress has authorized MPs and other personnel to apprehend persons who are controlled by the UCMJ or people who can go to trial under the rules of the UCMJ. Again, "reasonable suspicion" must be there before any apprehension is made by an MP.

(2) The authority that MPs have in a friendly foreign nation is almost always different from the authority they have in the United States. In a friendly foreign nation, the laws of that nation are almost always used for all people to follow, including the MP.

(a) In a combat zone, where there are civilians, or other people who are not controlled by the UCMJ, authority of MPs is taken from policies and orders from the military commander. Those policies are almost always based on international or domestic law.

(b) MPs are authorized to apprehend any friendly foreign force upon request of the commanding officer of that force or his designated representative. More details can be found in AR 27-51.

4. Reasonable suspicion requirement.

The Fourth Amendment to the U.S. Constitution protects a U.S. citizen's right to be free from unreasonable search and seizure. That means that the investigator cannot apprehend or search anyone unless he has a "reasonable belief" that an offense has been committed. The investigator must believe that the person he wants to apprehend committed that offense. "Reasonable suspicion" and "probable cause" mean the same thing.

"Reasonable suspicion" is the evidence needed to convince an average person that an offense has been committed. The evidence must also convince an average person that the person you want to apprehend and/or search committed that offense. The evidence used for apprehension and/or search must be more than just a suspicion that an offense was committed. The evidence does not have to be enough to convict a person of the suspected offense.

For example: Suppose there had been a bank robbery on the post involving three men. You learn that the car used in the bank robbery was a green 1985 Chevy. Ten minutes after the robbery, you see three men in a green 1985 Chevy speeding across the post heading for the main gate. Based on "reasonable suspicion," you would have the authority to stop, apprehend, and search the people riding in the car, and the car itself. Procedure for stopping, apprehending, and searching dangerous felons will be discussed later in this lesson.

5. Use of force.

a. When making an apprehension, it is possible that the investigator may have to use some degree of force. The law says to use only reasonable and necessary force to affect an apprehension. This means to only use the least amount of force needed to make the apprehension quickly and safely. When trying to decide how much force to use, remember the following degrees of force that are possible to use:

(1) Verbal persuasion. Using only your voice and body language, talk to the person whom you are apprehending and convince him to obey you.

(2) Unarmed self-defense techniques. Without the use of weapons, defend yourself and force the person you are apprehending to obey you.

(3) Chemical aerosol irritant (M361). The use of this device may be restricted by the country or location you are in.

(4) MP club.

(5) MP working dogs.

(6) Presentation of deadly force capabilities.

(7) Deadly Force. Use deadly force only as a last resort and after all other lesser means of force have failed.

b. Any time an apprehension is made, the constitutional rights of the offender must be protected. There are certain procedures the investigator must follow while making the apprehension, searching, or questioning of anyone suspected of committing an offense to make sure that the evidence collected could be admitted into court.

(1) He must follow the warning and waiver procedures obtained from the "Miranda" case, Article 31, UCMJ and the case of the "U.S. vs. Tempia."

(a) The decisions from these two court cases had a strong impact on police interview conduct and how the administration of criminal justice must be done.

(b) The Miranda and Tempia decisions set several important limitations on interrogations by state and federal law enforcement officials.

(2) Follow the rights warning procedure. It will ensure that the evidence collected will be allowed in a court of law.

6. General considerations.

a. Manpower requirement.

Before apprehending a person, evaluate the situation. Decide if there is adequate MP to handle any situation. Make sure there is enough firepower if needed. Remember, it is better to call and wait for help. In an emergency situation, call on any member of the Armed Forces for assistance. This includes making an apprehension.

b. Force – excessive or sufficient.

(1) As stated in the paragraph above, the law requires the use of the least amount of force necessary when apprehending a person. Before making an apprehension, review in your mind the types and degrees of force. The following is listed from lesser to more powerful degrees of force. Will this apprehension require:

- (a) Verbal persuasion.
- (b) Unarmed self-defense.
- (c) The use of a chemical irritant.
- (d) The use of your MP club. (See figure 3-2 for areas to avoid.)
- (e) Releasing MP dogs.
- (f) Presentation of deadly force capabilities. (g) Deadly force.

(2) Remember deadly force is justified only under conditions of extreme necessity and as a last resort when all lesser means have failed or cannot reasonably be employed. Deadly force is justified under one or more of the following circumstances:

(a) Self-defense. When deadly force reasonably appears to be necessary to protect law enforcement or security personnel who reasonably believe themselves or others to be in imminent danger of death or serious bodily harm.

(b) National security. When deadly force reasonably appears necessary to prevent the actual theft or sabotage of assets vital to national security. DOD assets will be specifically designated as “vital to national security” only when their loss, damage, or compromise would seriously jeopardize the fulfillment of a national defense mission. Examples include nuclear weapons; nuclear command, control, and communications facilities; and designated restricted areas containing strategic operational assets, sensitive codes, or special access programs.

(c) Assets not involving national security but inherently dangerous to others. When deadly force reasonably appears to be necessary to prevent the actual theft or sabotage of resources, such as operable weapons or ammunition, that are inherently dangerous to others; such as assets that, in the hands of an unauthorized individual, present a substantial potential danger of death or serious bodily harm to others. Examples include high risk portable and lethal missiles, rockets, arms, ammunition, explosives, chemical agents, and special nuclear material.

(d) Serious offenses against persons. When deadly force reasonably appears necessary to prevent the commission of a serious offense involving violence and threatening death or serious bodily harm. Examples include murder, armed robbery, and aggravated assault.

(e) Arrest or apprehension. When deadly force reasonably appears to be necessary to arrest, apprehend, or prevent the escape of a person who, there is probable cause to believe, has committed an offense of the nature specified in (2) through (4) above.

(f) To prevent escape of a prisoner. When deadly force has been specifically authorized by the Secretary of the Army and reasonably appears to be necessary to prevent the escape of a prisoner, provided law enforcement or security personnel have probable cause to believe that the escaping prisoner poses a threat of serious bodily harm either to security personnel or others.

(3) If it becomes necessary to use a firearm, it is imperative to following the additional guidelines as outline in AR 190-14.

(a) Give an order to halt before firing.

(b) Warning shots are prohibited.

(c) When a firearm is discharged, it will be fired with the intent of rendering the person(s) at whom it is discharged incapable of continuing the activity or course of behavior prompting the individual to shoot.

(d) Shots will be fired only with due regard for the safety of innocent bystanders.

(e) In the case of holstered weapons, a weapon should not be removed from the holster unless there is reasonable expectation that use of the weapon may be necessary.

(f) Commanders of Major Army Commands (MACOMs) may establish additional considerations in implementing procedures over the use of firearms.

c. Movement of subject.

(1) All apprehensions should be made using a plan. All MPs involved in the apprehension should know the plan and what the expected movement patterns will be.

(2) When giving commands during an apprehension, the investigator's commands should be given clearly and carefully. The offender being apprehended should make no movements except in obvious obedience to your commands.

d. Simplicity of apprehensions.

(1) It is important that all MPs are aware of the plan of apprehension. The plan and actual apprehension should be made in the easiest way the situation permits.

(2) Surprising the offender. If at all possible, surprise the offender that is being apprehended. Surprise gives the apprehending investigator or MP the advantage. Use surprise whenever possible except when the offender may panic and cause injury to other people.

e. Speed of apprehension. When the investigator affects an apprehension of the offender, it should be done in the quickest and most efficient way possible. The investigator must remember to keep himself, the offender, and surrounding people safe. Overcome any resistance as fast as possible. Remember to use the least amount of force possible.

7. Special considerations.

a. Apprehending and searching civilians.

(1) Control over civilians is possible on military installations because the installation is federal property. When the government employs civilians, there are regulations that permit the commander to control their behavior. Civilians who do not follow lawful regulations can be punished.

(2) Civilians who have been properly arrested under the Law of Citizen's Arrest may be immediately searched. Proper arrest means:

(a) An investigator, MP, or other authorized person has made the apprehension.

(b) There is “reasonable suspicion” or “probable cause.”

(c) The apprehension followed the requirements of the citizen’s arrest laws of the state in which the military installation is located.

(d) If the details of an apprehension do not necessitate a citizen’s arrest, the rules for “stop and frisk” may be used. Rules for “stop and frisk” search will be explained later under “Types of Search.”

b. Apprehending female subjects/suspects. Male MPs or investigators may apprehend female offenders and female MPs may apprehend male offenders. However, only a female MP may search the person of a female offender of the Armed Forces. A male MP who apprehends a female offender may search only the purse, coat, parcels, and baggage of a female offender. The only exception is when in the MP has "reasonable suspicion" that the offender is armed. If there is no one of the appropriate sex available to make a search, a frisk search should be made to locate any weapons. Prevention of injury or loss of life may depend on this search.

c. Handling juveniles.

(1) A juvenile is a person under the age of 18 who is not a member of the Armed Forces or the spouse of a member of the Armed Forces.

(2) Civilian juveniles who are the children of nonmilitary or military sponsors on a military installation come under the control of the commander. Normal apprehension procedures should be followed until the juvenile arrives at the MP station.

(3) In the past, a majority of encounters with juveniles happened when investigating minor offenses like disturbing the peace. However, in today's society it has become acceptable by today's youth to commit more serious crimes against both person(s) and property. Examples of such crimes include, but are not limited to, running, selling, and the taking of drugs, armed robbery, rape, and murder, which incorporate the drive-by shootings that often happen in the larger gang infested cities.

(4) When a crime has been committed by a juvenile, the apprehending MP or MPI, depending on the seriousness of the crime and for officer safety, may place the juvenile in hand irons prior to transporting the suspect to the MP station (further guidance can be ascertained from the desk sergeant at the time of apprehension to ensure compliance with local command policy). Immediately after arriving at the MP station, the juvenile’s parent or guardian must be notified of the apprehension, the intent of advising the juvenile’s personal rights and the offence for which the juvenile was apprehended. When arriving at the MP station, the juvenile must not be brought through the main entrance, placed in public view, placed in a holding cell.

(5) When interviewing or interrogating a juvenile, the interviewer should be of the same sex or have a witness of the same sex as the juvenile. If the juvenile being interviewed is a possible suspect in a crime, the parent(s) or guardian(s) should be present during the rights advisement portion. When interviewing a juvenile, it is sometimes helpful to conduct the interview in a familiar setting such as the juvenile’s home or school. In some instances it is helpful to have the parent(s) present during the interviewing process, but keep in mind that a majority of the time, juveniles will be reluctant to discuss their misbehaviors in front of the parent(s). In this case, consideration should be given to ask the parent(s) to watch and listen to the interview from an adjoining room.

(6) If at all possible, never conduct an interview with a juvenile in an academic setting such as his school. If the interview must take place in that environment, the investigator should first contact the principal and explain the circumstances surrounding the purpose for the interview and why it must be conducted in that setting. Upon arrival, the investigator should never go into the classroom to retrieve the juvenile or make contact with the teacher first. Instead, the investigator should report to the school principal and ask to use a classroom or secure area away from other students. If, upon completion of the interview, the juvenile must be apprehended, the investigator must first get permission from the principal to remove the juvenile from school property, unless specific court instructions mandate otherwise.

(7) Juveniles will be fingerprinted only with the expressed consent of the juvenile and the parent or guardian. When in CUSTODY, the juvenile will be fingerprinted only with the written consent of a U.S. Magistrate, federal judge, or other judge responsible for juvenile cases, regardless of the consent of the juvenile and parent. When the parent is the suspect/subject of an offense against the juvenile, the juvenile may be fingerprinted provided the juvenile does not object. The fact that the juvenile may be incapable of objecting does not constitute a bar to fingerprinting the juvenile.

NOTE: The word custody in this paragraph refers to the arrest of the juvenile and who is being detained pending some particular court proceedings.

d. Considerations for apprehending commissioned officers. Any officer can apprehend an enlisted man (a CID special agent can apprehend officers and warrant officers). The commanding officer can also apprehend officers or warrant officers. However, when an enlisted person, including MP, guards, and DAC police apprehend any commissioned or warrant officer, that person should make an immediate report to the commissioned officer or Provost Marshal (PM) to whom the apprehending person is responsible. Basically, when dealing with an officer, it is highly recommended, and in some cases local policy, to have the help of the duty officer, when making an apprehension.

PART B - PROCEDURES AND TECHNIQUES USED IN APPREHENDING AND PERFORMING SEARCHES INCIDENTAL TO APPREHENSION.

1. Apprehension of persons suspected of committing an offense is serious. This section will focus on basic techniques to keep the investigator, the person being apprehended, and all bystanders safe during the apprehension. There are many factors that go into making a safe, rapid apprehension. Searching, transporting, and detaining subjects suspected of committing an offense is part of the apprehension. There are methods and techniques of searching, transporting, and detaining subjects that will be discussed. Topics covered in this part of the lesson will be:

- Evaluating the situation.
- Methods of approach to a subject.
- Apprehension of specific populations of people.
- Searches that occur after an apprehension.
- Transportation and detention.

a. Evaluation of the situation is the first step toward apprehending someone suspected of committing an offense. Safety of the investigator or MP, the person being apprehended, and other persons in the area, is of primary concern. From the point of view of safety, there are no "routine" cases. Regardless of how a subject may first appear, any person about to be apprehended may:

- (1) Be armed and dangerous.
- (2) Attempt to assault the apprehending official.
- (3) Try to make an escape that will endanger the safety of those at the scene.

b. Many variables must be considered when evaluating an apprehension or incidental search. We will examine some of those variables that will contribute to the smooth and safe execution of an apprehension and subsequent search of an offender.

(1) Alleged violation. As a supervisor, ensure that MPs are familiar with violations that may be committed. There are a variety of possible violations. Violations have been categorized according to how severe the offense is. Each offense carries a different degree of severity that leads to a different degree of punishment. Some of the categories of violations follow.

(a) Minor Offenses. Some incidents are considered minor and do not require an apprehension. These are offenses for which the authorized penalty does not exceed imprisonment for a period of 1 year, a fine of not more than \$1,000, or both. Minor offenses do not include violations of post traffic regulations that may be prosecuted under the UCMJ. Minor offenses include violations of provisions of state traffic laws that are made applicable to the military reservation pursuant to the provisions of Section 13 of Title 18, USC (assimilative crimes). Some examples of minor incidents are:

1. Traffic violations.
2. Illegal parking.
3. Matters that permit on-the-spot correction.

(b) Serious offenses. Some incidents are more serious. These carry a greater punishment. The seriousness of an incident is determined by:

1. Nature of the incident.
2. Extent of the loss or damage to property.
3. Necessity for further corrective or preventive action.

(c) Some serious incidents require apprehension. These have been given legal names and definitions. The investigator must understand the difference between types of offenses so that he can make the best evaluation possible in a situation where apprehension becomes necessary. The types of offenses possible are:

1. Felony. An offense punishable by death or imprisonment for more than 1 year.
2. Misdemeanor or minor offense. An offense that is not a felony.
3. Breach of Peace. A public offense where violence is used that causes, or is likely to cause, an immediate disturbance of public order. Any act which involves the use of force toward the person or property of another.

(2) Attitude of the suspect.

(a) Attitude can make the difference between a smooth, safely executed apprehension and a disastrous one. Before an apprehension is made, observe the offender, and evaluate his attitude quickly. Note whether he is:

- Belligerent.
- Boisterous.
- Aggressive.
- Surly.
- Meek.
- Mild.
- Playful.

(2) Remember that no matter how the offender "seems," it is possible that he could be armed and dangerous. Remember this fact while determining an approach to the offender. The way the investigator approaches the offender can determine the response he will get from him; for example, when the investigator first approaches the offender, appeal to his intelligence and the good qualities that he may have. He may be more cooperative. However, it is important to remember that regardless of his current attitude and demeanor, always assume that the offender is dangerous.

(3) Possible actions of others in the area. As part of the evaluation of the situation, observe all personnel in the immediate area where the apprehension will occur. It is important to estimate what actions the nearby personnel might take when the apprehension begins. Select the course of action that seems best in view of what the offender or other personnel in the area might do.

2. Stop and approach the offender.

a. An MP must always maintain the highest degree of military courtesy and bearing. Use the vehicles emergency lights, public address system, or horn, to signal the violators to pull over and stop. Use the siren only if you cannot stop the vehicle in any other way.

b. Basic Techniques. If the violator is an officer, a salute will be given. Remember to use military titles, such as, "Sir," or appropriate civilian titles at all times. The basic steps for approaching an offender are:

- (1) Greet the offender.
- (2) Identify yourself.
- (3) Tell him why you stopped him.
- (4) Tell him what action you are going to take.

(5) Request identifying papers.

c. After stopping the offender and taking the steps listed above, contact the MP desk and give the driver's name (last, first, middle initial) and date of birth. Request a files check on the driver, (also known as wants and warrants check). Wait for a response from the MP desk, if the name check comes back clear, take whatever action is necessary. That action may be:

(1) Give a warning.

(2) Issue a citation.

(3) Apprehend the offender.

d. If the person in the vehicle is a not a suspected felon (conducting a felony stop will be covered later on in the lesson), there are still specific steps that must be must taken before approaching. The MP or investigator should notify the MP station of the details of the situation and follow the guidance of the MP desk if there is an outstanding warrant for the driver. Some of the information you should relay to the MP desk is:

(1) Patrol identification.

(2) Exact location of contact with vehicle.

(3) Description of the vehicle: license number, make, model, color, and any marks that will help identify the vehicle.

(4) Number and sex of all of the people in the vehicle.

(5) Direction of travel and the last intersection passed.

e. There are many different situations possible when you approach people. Would the approach be the same when you approach a person, more than one person, or a group? No. There are specific techniques you will learn in this section that will help you approach people in different situations.

(1) Handling an individual.

(a) **Remember to always make a mental note.** All offenders may be dangerous. Your approach to any individual should be courteous, but always firm and decisive. Use your voice in a calm tone but with authority. You should have a positive attitude but keep yourself a little restrained.

While you ask to see the suspect's identification or other appropriate papers, your partner should stand to the side. This puts him in a position of advantage.

(b) After you have received proper identification from the suspected offender, apprehend him if the situation calls for an apprehension.

(c) Always take precautions to avoid being assaulted by the offender. At night, when approaching him, hold your flashlight in the hand that will not interfere with the use of your weapon.

If you suspect that the offender is armed, it may be advisable to approach him with your weapon drawn. Keep your weapon out of his reach. Do not point it directly at the person. If you must approach with your

weapon drawn, remember the "use of force" law. Your weapon, if used, means you are using "deadly force." "Deadly force" may only be used when all other lesser kinds of force have failed.

(2) Handling groups of people.

(a) When you approach a group of people with the intent to make an apprehension, be careful that the group does not gain the advantage. The MPs should be separated enough to provide freedom of action, but not spread out so far that the suspects could go in between the MPs. Avoid questioning individual people while still in the group. When you want to question one person, separate him from the group.

(b) You may find it necessary to apprehend one person in the group, more than one person in the group, or the entire group itself. Make sure that you have enough MPs, civil police, or friendly service personnel to handle the situation in a safe and efficient way. If there is resistance from the group and you feel you cannot cope with the situation, send for help.

(c) You may want to photograph the group if you have a camera. Pictures help to record and identify who was in the group.

3. Approach to a building.

a. Approaching and entering a building with the intent of apprehending someone inside requires knowledge and skill. There are several things you must remember. Before you enter the building, you must:

- (1) Determine if you have the authority to enter the building.
- (2) Consider whether innocent persons may also be inside the building.
- (3) Know precautions to take to avoid injuring innocent people if you should need to use firearms.
- (4) Determine whether you have manpower and fire power to do the job.

b. There are step-by-step procedures that you must use to preserve the greatest amount of safety for everyone involved. Before entering the building, you should:

(1) Notify your headquarters of your intent to enter the building. Request the support that you think will be necessary.

(2) Determine the number and attitude of people in the building. You must anticipate and prepare for any hostile actions from them.

(3) If possible, determine what type and how many weapons are inside the building for offenders to use.

(4) Make sure that you have enough firepower and manpower to handle the situation.

(5) Observe and cover all entrances and exits to the building you are preparing to enter.

(6) Make sure that you have a primary and alternate route of escape.

(7) Know the location of all of the other MPs in the area.

(8) Before opening a door, stand to one side for protection in the event the suspect opens fire.

(9) After entering the building, keep within supporting sight and assistance of your partner. While one of you investigates the incident, the other stays watchful, alert, and prepared to give immediate help.

4. Traffic stops.

Remember that safety for yourself and that of the public are the most important things to think about when pursuing or stopping a violator.

When someone is observed breaking a traffic law, record the following information:

a. For a privately owned vehicle, write down:

(1) License number, make, model, and color.

(2) Installation decal number.

(3) Number and sex of the people inside the vehicle.

b. For a military or government vehicle, write down:

(1) Type of vehicle (184-ton utility truck, jeep, etc.).

(2) Bumper markings and USA number.

(3) Number and sex of the people in the vehicle.

(4) Any other marks on the vehicle that would help identify it.

(5) Check to see if the vehicle is on the stolen vehicle list. If it is, plan the stop and approach the vehicle.

c. Again, as a reminder, when approaching an offender for a traffic stop, keep in mind that all offenders can be dangerous. The procedures for stopping non-felons and felon offenders are somewhat different.

(1) When conducting non-felony traffic stops, radio the desk to let the MP station know that you are pursuing and plan to make a stop. Give the station your location and all the information you have to identify the vehicle. Remember that the vehicle siren should be used only when there is no response to other methods. Follow the procedure outlined below:

(a) Pull the offender over in a place large enough so both his vehicle and your vehicle may be pulled all the way off the road.

(b) Park the MP vehicle 3 to 4 meters to the rear and 3 feet to the left of the offender's vehicle.

(c) The driver of the MP vehicle should:

- Keep the offender inside at all times.
- Approach from the left side.
- Stop at the rear window and check the trunk.
- Check the rear seat and floor.
- Go to the front edge of the driver's door.
- Check the front seat and floor.
- Go to the point near the center of the car just behind the rear edge of the front door.
- Watch the people in both the front and back seats.

NOTE: If you are alone, make sure that your search is a complete one.

(d) The MP rider should:

- Approach from the right side
- Stop at the right rear of the vehicle.
- Watch the people in the vehicle.
- Be ready to help the MP driver.

NOTE: When it is necessary to have the offender get out of his car, check for oncoming traffic before opening the driver's door. Move backwards carefully when the door is opened. If traffic makes it unsafe for the offender to get out of his car on the driver's side, open the passenger's door. Tell the driver to move around to the rear of his vehicle. Stay behind him; follow him to the curb or sidewalk to the right of the vehicle.

b. Stopping a dangerous felon. Your safety and that of the public are the most important things to consider when pursuing or stopping a dangerous felon.

(1) When you are planning on stopping a dangerous felon, you should contact the MP station. Give the desk sergeant the following information:

- (a) Your patrol identification.
- (b) Exact location of contact with the vehicle.
- (c) License number, make, model, and color of the vehicle.
- (d) Number and sex of the people inside the vehicle.
- (e) Any marks that will help identify the vehicle.
- (f) Direction of travel and the last intersection passed.

NOTE: Repeat the direction information often so other patrols can converge for support. The suspect vehicle should be followed until it is known that help is available.

(2) When you are ready to stop the suspected felon, follow the procedure outlined below. Remember that this procedure is designed to provide the maximum safety for you, the offender, and any innocent people in the area.

(a) Select an open, well lighted area that is large enough to handle three or four cars. Do not stop near alleys, buildings, or vacant lots. Those types of areas provide easier escape for the offender.

(b) Use lights and siren to attempt the stop.

(c) Once subject's vehicle has stopped, position your vehicle 30-40 feet directly to his rear with the wheels turned to the left. Pull in, do not back in. In this position, your vehicle protects you from oncoming traffic. It also gives you room to move out of the way if the suspect tries to ram your car. Angle the front of your vehicle toward the street (see figure 3-5).

(3) If you are making a stop at night, aim a spotlight at the interior of the vehicle and follow these guidelines:

(a) MP driver. Take a position behind the door using it and the front wheels as protection.

(b) MP rider. Take up a position behind the passenger door using it and the front wheels as protection.

(4) At this point, the senior MP should take command of the situation. He should issue the orders:

"MILITARY POLICE! YOU ARE UNDER APPREHENSION! TURN OFF YOUR MOTOR AND DROP YOUR KEY TO THE GROUND!"

(a) Make sure that you can see the suspected felon's hands. Order him to place his hands against the windshield, or stick both his arms out of the window. If there is more than one person in the car, use a combination of these methods.

(b) When other MPs arrive at the scene, they will park their vehicles parallel to your vehicle and forward, if available, to provide additional support and fire power. They may search, guard, or report to the desk the conditions of the apprehension as it is occurring.

(5) At this time, the senior MP is still in charge of the apprehension. He will let the suspected felon know that more MPs have arrived. He will then say:

"DRIVER, OPEN THE CAR DOOR - GET OUT WITH YOUR HANDS UP! PASSENGERS, PLACE YOUR HANDS AGAINST THE WINDOWS!"

(a) When the suspects are out of the vehicle, he orders them away from their vehicle and into a prone search position on the ground or into a kneeling search position.

(b) Next, the driver of the first MP vehicle will search the suspects for weapons and evidence by placing the suspects in a kneeling or prone position. After the search is made, the suspects will be placed in handcuffs and put into the back seat of the patrol vehicle under guard. If there are more people to be taken into custody, put them in the back seat of the MP vehicle parked behind the senior MP vehicle. The second MP vehicle holding suspects will also be placed under guard.(c) When all the suspects are safely handcuffed and placed in the back seat of each MP vehicle under guard, the first MP rider will carefully search the suspect's vehicle to ensure there is no one hiding in the vehicle. Then, he will search the driver's seat, the seats where any passengers were sitting, and the area under each seat for weapons and/or evidence. Next, he will seize any items found and any items observed in plain view.

(6) When the MP makes his report to the desk, he will give the desk sergeant the following information:

- (a) Number and sex of persons apprehended.
- (b) Additional patrol(s) if needed.
- (c) Description of items seized.
- (d) Report of departure.

5. Apprehension.

a. Apprehension occurs when an authorized person takes physical control of another person by "reasonable force" or by voluntary submission. Remember from Part A that "reasonable suspicion" or "probable cause" means that there must be enough belief or cause to convince an average person that an offense has been committed. Also, that the person being apprehended must have committed that offense.

b. When you are ready to make an apprehension, a plan should also be ready. Planning is developing a method of action to apprehend an offender. All MPs involved in the apprehension must clearly understand the plan. Everyone must understand:

- (1) What is to be done?
- (2) How it is to be done?
- (3) Why it is necessary?

c. When making an apprehension, all MPs involved should be prepared to take prompt action at the scene. MPs should be familiar with:

- (1) Laws of arrest.
- (2) Standing Operating Procedures (SOPs).
- (3) Use of deadly force.
- (4) Handling and custody of evidence.
- (5) Crime scene protection.

d. Apprehension of military personnel.

(1) MP have authority to apprehend persons subject to the UCMJ or those persons who are subject to trial under the UCMJ. The authority of the MP applies to all members of the Armed Forces on Active duty and to certain retired personnel and other personnel as defined in Article 2, UCMJ.

(2) MP do not have authority over the National Guard, Army Reserve, or Reserve Officers Training Corps not on Active duty. If an MP encounters a person not subject to the UCMJ committing a misdemeanor or a felony, that person may be apprehended and detained long enough to be turned over to the appropriate unit or civil authorities.

(3) When an MP apprehends a civilian, care should be taken to follow the laws of the state in which this occurs. The laws are vague on the degree of force a citizen may use in making an arrest and his right to make a search incident to the arrest. Only reasonable force can be used when making an apprehension under a citizen's arrest and the offender should be turned over to the custody of the proper authorities as soon as possible.

(4) Commanders will provide periodic refresher training to make sure that their soldiers are current in doctrine involving the "use of force." MPs will qualify yearly with their assigned handguns. Interior guards will receive instruction regarding the "use of force." Certain requirements concerning the use of the MP club and chemical aerosol irritants apply only when these weapons are issued items or carried on duty.

e. Rights warning.

(1) In Part A, you learned of the legal protection offered citizens of the United States under the Constitution. Now, we will look at the procedure for making sure that an offender's rights under the Constitution are protected during apprehension.

(2) As soon as you are sure that the person you are dealing with has become a suspect, there are certain procedures you must follow. This is to make sure that anything the suspect says can be entered into court as legal evidence. To do this, you must:

(a) Inform the suspect of: your official position, the nature of the offense(s), the fact that he is suspected of the offense you have explained.

(b) Read the person their rights. Each MP should have a copy of a pocket-sized, Graphic Training Aid (GTA) 19-6-5, "How to Inform Suspect/Suspect Persons of Their Rights," July 85.

(c) Fill out DA Form 3881, "Rights Warning Procedure/Waiver Certificate," as soon as possible.

(3) The suspect may have made spontaneous statements that would point to his guilt before being properly advised of his rights. The suspect should be told that he does not have to answer further questions.

(4) A suspect may have been questioned before being properly advised of his rights. The suspect should be told that statements made during that time cannot be used against him and that he does not have to answer further questions.

6. Search incidental to apprehension.

a. In Part A, you learned of the legal implications of search and seizure. You also learned the different types of searches. The Fourth Amendment to the Constitution provides that no one shall be searched or their property seized without "reasonable belief" or "probable cause." Since this applies to military law too, MPs must be careful to protect the rights of those persons subject to search.

b. Reasonable searches can be made without a search warrant or other authorization if the search is conducted promptly. An authorized person must be the one making the search. The person being taken into custody must also know that he is under apprehension before the search is made.

c. A search can also be made if prompt action is required to prevent:

- (1) Disposal of property in illegal possession.
- (2) Disposal of contraband.
- (3) Disposal of stolen property.
- (4) Disposal of property used in committing a crime.

d. A search warrant or other form of authorization is not required if the MP feels that there is "reasonable suspicion" or "probable cause" to warrant the search. The MP on patrol spotted a car that matched the description of the car involved in the robbery. "Reasonable suspicion" would exist; so you would be within your legal right to stop the car. If the description of the driver matched the description of the robber, "reasonable suspicion" would exist. This would permit you to apprehend the suspect and search the car.

e. A search can also be made if the person you wish to search gives you permission. He must give permission freely and without any force from the MP.

7. Transportation and detention.

a. There are rules and procedures to follow to make sure the offender's rights are protected and that both he and the MP stay safe. Here are some things to remember:

- (1) Make sure there are enough MP for the job.
- (2) Inspect the offender's clothing.
- (3) Look for weapons.
- (4) Put the offender in the MP vehicle.
- (5) Make sure there is nothing in the vehicle that could be used as a weapon.
- (6) Put the suspect where you can control him.
- (7) Do not lock him to the vehicle with handcuffs.
- (8) Lock the toolbox. Lock the glove compartment.

b. If you have to sit with the offender, make sure he cannot get to your weapon.

c. Before you drive to the MP station, call the desk sergeant. Tell him:

- (1) Where you are.
- (2) How many offenders there are.
- (3) What the offender's sex is.
- (4) What the starting mileage is.
- (5) What time it is.

d. Put your seat belt on.

e. If something happens that slows you down or stops you on the way to the MP station, you should call the desk sergeant. Tell him:

- (1) Where you are.
- (2) What is wrong.
- (3) What time it is.
- (4) How long the stop will take.
- (5) When you will continue.

f. When you get to the MP station, you should:

- (1) Remove the offender from the vehicle.
- (2) Turn the offender over to the desk sergeant.
- (3) Go back to the MP vehicle. Look for any weapons or evidence.
- (4) Complete your paper work.

g. Detention

(1) When the person you apprehended arrives at the MP station, he may be detained. Detention should not last more than 24 hours. Detention longer than 72 hours is not permitted. However, the installation commander may extend the confinement up to 72 hours. Offenders will be detained:

- (a) Only when it is necessary.
- (b) With proper supervision.
- (c) In a decent way.

(d) Where they will stay healthy and comfortable.

(e) Where they will not be in front of the public.

(2) Detaining juveniles in adult detention cells is not allowed. The youth must be kept away from the operations functions of the MP station. The area where you would keep the juveniles needs to be comfortable, private, and out of public view.

(3) Make sure that you search all persons you put in detention. Take the offender's money and other valuables. Take all items that he could use to hurt himself: belts, shoes, shoelaces, neckties, garters, suspenders, etc.

Fill out DA Form 4137, Evidence/Property Custody Document or DA Form 1132, Prisoner's Personal Property List Personnel Deposit Fund. Put the offender's personal items in the MP station safe. Do not take wedding rings. Give a receipt to the person in detention for the items you took.

(4) An offender should be put into a cell to prevent escape, to make sure he stays safe, or to make sure that you and the others around you stay safe.

(a) Give the offender bedding if he is in the cell longer than 12 hours.

(b) Give the offender normal amounts of food and water.

(c) Do not put male and female offenders in the same cell.

(d) When female offenders are put in a detention cell, female security must be there.

(5) Recording Detention. Note on the DA Form 3997, Military Desk Blotter:

(a) Reason for detention.

(b) Time of detention.

(c) Name of person ordering the detention.

(d) The reason force was used.

(e) The degree of force used.

(6) Medical Examinations. Some offenders in detention might be drunk and/or some offenders in detention might be under the influence of drugs. Other offenders in detention might be sick. These people must be examined by medical personnel.

After the medical examination, fill out the paper work. The DA Form 3997, MP Desk Blotter must show:

(a) The time of the examination.

(b) What the medical examiner found.

(c) What was done about it.

(d) Name, rank, and organization of the person who examined the person in detention.

(7) When the person is released from detention:

(a) Return to him his personal items from the safe. He must sign a DA Form 4137 or DA Form 1132. This proves that he got his items back.

(b) On the MP Desk Blotter, DA Form 3997, record the time you released him, and where he went.

(c) Detention cells will be inspected from time to time to make sure they are:

- Clean.
- Have enough light and air.
- Are in good repair.

(8) Medical officers will inspect detention areas weekly. They will make sure that the detention area is clean and healthy. They will also make sure that the offenders are taken care of and are healthy.

(9) The PM will make a plan to ensure that all detained individuals stay safe if a fire or other emergency occurs.

A first-aid kit and fire extinguisher will be available near the detention cells. Keep these things out of reach of the people in the cells.

SUMMARY

This subcourse provided an overview of the various facets of investigation procedures, policies, and techniques. It included specific information on records, files, and forms and the importance of maintaining them.

lesson 2B - Test(s) and Test Solution(s)

INTRODUCTION

You have just finished reading the instructional material for Lesson 3. This lesson covered apprehensions and searches incidental to apprehension. It is now time to check your comprehension of the lesson. This is done by completing the practice exercise below.

All of the questions are multiple-choice and are intended to measure how well you comprehend apprehension and searches incidental to apprehension. There is only one correct answer to each question. Try to answer all of the questions without referring to the lesson material.

When you have completed all of the questions, turn the page and check your answers against the correct responses. Review any questions you have missed or do not understand. When you have finished your review, continue to the next lesson.

As a supervisor of the MPI Section, you and your subordinates have the authority to apprehend and search offenders of laws and regulations. Your staff members are having a conversation about their authority to apprehend and search

offenders. Your staff members know that their authority comes from the fact that they are trained MP. Your staff members ask you what ultimate source of authority empowers the MP. You answer their question by telling them that the highest source of authority granting MP power to apprehend and search offenders is:

- UCMJ.
- Bill of Rights.
- The commander of the military installation on which they are stationed.
- The Constitution of the United States.

SITUATION for questions 2-5: You and SGT Frank, a new MPI who has just joined your section, are out on a routine errand when news of a recent attempted robbery on the post is radioed to you. The suspect is described as a tall, Caucasian male in civilian clothing with shoulder length, brown hair. He was reported to have a tattoo on his left forearm. He left the scene of the incident on foot. He was wearing a red Hawaiian print shirt with blue jeans and tennis shoes. A few minutes later, you notice a Caucasian male wearing a red shirt driving off the post.

Given the case above, on what legal principle would you follow the suspect with the intention of possibly apprehending him?

- "Reasonable cause."
- "Reasonable exception."
- "Reasonable suspicion."
- "Probable cause."

Again, using the example above, you and your partner prepare to pull the suspect over, question him, and possibly apprehend him. Based on the nature of the offense he is suspected of committing, the best way to pull him over must be to:

- "Sandwich" his car onto the shoulder of the road.
- Park the MP patrol vehicle 3-4 meters feet behind the suspect's vehicle with the front of the MP vehicle facing into the street.
- Position your vehicle 30-40 feet directly to his rear with the wheels turned to the left.
- Park the MP patrol vehicle in front of the suspect's vehicle with the front of the MP vehicle facing into the street.

You and your partner are now ready to approach the suspect. Since you are the senior MP at the apprehension scene, what do you have your partner do?

- Exit from the left front door and take a position at the left rear of your vehicle.
- Take up a position behind the passenger door using it and the front wheels as protection.
- Stay behind in the MP patrol vehicle and radio the MP operations center to send help.
- Accompany you while you approach the suspect to present a strong front.

As you approach the suspect, you realize that the use of force is a strong possibility in this apprehension. You mentally prepare yourself. In your mental review, you remember the various types of force. Which of the following is not appropriate?

- Coercion.
- Verbal persuasion.
- Unarmed self-defense.
- Use of the MP club.

A team of MPs radio in that they have apprehended several personnel suspected of shoplifting from the base PX. Two of the suspects are women. The MPs need your advice on how to handle this situation involving women. What do you advise the MP team to do?

- Apprehend and search the possessions and persons of the women.
- Apprehend and search only the coats, baggage, and parcels belonging to the women.
- Cannot apprehend the women because they are male MP, but you will send a female MP on the double.
- Reprimand the women, return the stolen items, and send them on their way with only a warning.

You are in the MPI section office when a team of MPs enter with two civilians apprehended for driving on post while intoxicated. Because the offenders are civilians, you tell your MPs?

Cannot apprehend them because they are civilians.

Advise the MPs that they did a good job of apprehending dangerous drivers regardless of their civilian status.

Advise the MPs that they are within the limits of their authority to apprehend these civilians based on the citizen's arrest laws of the state in which the base is located.

Admonish the MPs for apprehending civilians because the MPs did not have proper authority to apprehend people not subject to the UCMJ.

Because of the incident with SGT Frank searching the trunk of the suspected robber's vehicle, you review the laws regarding search and seizure. You remind the section personnel that the Fourth Amendment to the U.S. Constitution protects the citizen's right to be free from search and seizure. There are only specific times when an MP may conduct a search. Which response is NOT a specific time that an MP may make a search?

When you merely suspect that someone is a possible suspect of an offense.

When the person to be searched gives you his permission.

When you have a search warrant.

When you have just made an apprehension.

Lesson 2 EXERCISE SOLUTIONS

ANSWER KEY AND FEEDBACK

Item Correct Answer and Feedback

1. d. The Constitution of the United States.

The Constitution also gives the . . . see page 2-5, Activity 1 b(3)(2).

2. c. "Reasonable suspicion."

The Fourth Amendment to the . . . see page 2-6, Activity 1 d(1).

3. c. Position your vehicle 30-40 feet directly to his rear with the wheels turned to the left.

Position your vehicle 30-40 feet directly to his rear with the wheels turned to the left . . . see page 2-18, Activity 2 d(1)(a)(3)(b)(II)(iii).

4. b. Take up a position behind the passenger door using it and the front wheels as protection.

Take up a position behind the passenger door using it and the front wheels as protection . . . page 2-18, Activity 2 d(1)(a)(3)(b)(III)(ii).

5. a. Coercion.

When trying to decide how much force to use, remember the following degrees of force that are possible to use . . . see page 2-6, Activity 1 e(1).

6. b. Apprehend and search only the coats, baggage, and parcels belonging to the women.

A male MP who apprehends a female offender may search only the purse, coat, parcels, and baggage of a female offender . . . see page 2-9, Activity 1 g(2).

7. c. Advise the MPs that they are within the limits of their authority to apprehend these civilians based on the citizen's arrest laws of the state in which the base is located.

Control over civilians is possible on military installations because the installation is federal property . . . see page 2-9, Activity 1 g(1)(a).

8. a. When you merely suspect that someone is a possible suspect of an offense.

Reasonable searches can be made without a search warrant or other authorization if the search is conducted promptly . . . see page 2-21, Activity 2 f(2).

LESSON 3

DIRECT MILITARY POLICE INVESTIGATIONS SECTION ACTIVITIES

OVERVIEW

LESSON DESCRIPTION:

This subcourse is designed to provide an overview of the various facets of investigation procedures, policies, and techniques. Included in this overview will be specific information on records, files, and forms.

TERMINAL LEARNING OBJECTIVE:

ACTION: Direct MPI Section personnel in performing section activities.

CONDITION: Use this subcourse

STANDARD: Demonstrate competency of this task by achieving a minimum passing score of 70 percent on the final subcourse examination.

REFERENCES: FM 19-10, FM 3-19.13, FM 3-19.30, AR 190-30, AR 190-45, AR-195-4, and ALCID Memorandum 013-06.

INTRODUCTION

Examine the titles of the lessons in the Apprehension, Investigations, and Interview subcourse. Before you go on, try to visualize how the topics covered in this subcourse combine to create a system of MPI Section Operations. This lesson has been developed to provide you with a working knowledge of MP investigative procedures.

PART A - Personnel Management.

1. The investigation of crime is one of the primary functions of the MP. MPIs provide the PM with an investigative capability. Generally, MPs investigate the less serious crimes not within the responsibility of the United States Army Criminal Investigation Command (USACIDC).

a. In this part of the lesson, we will be looking at:

- (1) Personnel selection standards and requirements.
- (2) Personnel training requirements.
- (3) Credential accountability.
- (4) Personnel utilization.

b. With any new situation, there may be terms used that are not familiar to you. Become familiar with the definition of terms given below:

(1) MPI Program. A DA program established to assure uniformity and continuity of policy, procedures, and resource utilization in the conduct of MPIs.

(2) MP Investigator. Enlisted MP personnel (Primary Military Occupational Specialty [PMOS] 31B Additional Skill Identifier [ASI] V5) in rank of Corporal/Specialist (CPL/SPC) through Sergeant First Class (SFC) or DAC police officer (083 or 1811 series) who have been selected, trained, assigned, and certified to conduct investigations of criminal offenses and incidents under the direction of the installation or activity PM/security officer in accordance with AR 190-30.

(3) Military Police Investigations (MPI). An investigation conducted by MP, usually an MP Investigator.

(4) MPI Credentials. A standard identification document (DA Form 3837 and DA Form 3837-1) used to identify MPI.

(5) Offense. Any violation of law, lawful order, regulation, or directive that the offender has a duty to obey.

(6) Criminal Offense. Any offense not unique to the military.

(7) Military Offense. Any offense unique to the military that has no parallel application in a civil environment.

(8) Serious Criminal Offense. Any criminal offense for which the punishment listed in the Table of Maximum Punishments, Manual for Courts-Martial, is confinement for a period of 1 year or more.

(9) United States Army Criminal Investigation Command (USACIDC). The command within the U.S. Army responsible for investigation of serious criminal offenses, in accordance with AR 10-23, AR 195-1, and AR 195-2.

2. Personnel qualifications. Selection standards and requirements. The Army has set certain standards for MP investigators. MP investigators can either be enlisted MP personnel or DAC police officers (083 or 1811 series). Individuals wanting to be MPI must meet the following requirements:

a. Enlisted MPs:

(1) Have PMOS of 31B (except for the U.S. Disciplinary Barracks and Regional Confinement Facility, where a PMOS of 31E is authorized).

- (2) Are citizens of the United States (native born or naturalized).
- (3) Are pay grade E4 through E7.
- (4) Have a General Technical (GT) or Skill Technical (ST) score of 100 or higher.
- (5) Have at least 1 year of military service remaining as indicated by their Expiration of Term of Service (ETS). This may be waived with an oath of extension or statement of intent to reenlist.
- (6) Have a final SECRET clearance. An INTERIM SECRET security clearance is acceptable provided the requisite Personnel Security Investigation (PSI) has been submitted.
- (7) Have at least 1 year of MP experience.
- (8) Be a high school graduate or have received the General Educational Development (GED) equivalent.
- (9) Have not been previously dismissed, reassigned from, or relieved for cause from the MPI Program for misconduct or inefficiency.
- (10) Be free of any record reflecting:
 - (a) Civilian or military convictions other than minor violations.
 - (b) Multiple or repeated arrests or apprehensions.
 - (c) Substantial record of juvenile misconduct, financial irresponsibility, or other conduct or behavior not in the best interest of Army law enforcement.

b. Civilian personnel must—

- (1) Be a U.S. citizen (native born or naturalized).
- (2) Have a final SECRET clearance. An INTERIM SECRET security clearance is acceptable provided the requisite PSI has been submitted.
- (3) Have at least 1 year of MP or civilian police experience.
- (4) Be a high school graduate or have received the GED equivalent.
- (5) Have not been previously dismissed or reassigned from or relieved for cause by a military or civilian investigative or police agency for misconduct or inefficiency.
- (6) Be free of any record reflecting—
 - (a) Civilian or military offenses other than minor violations.
 - (b) Multiple or repeated arrests or apprehensions.
 - (c) Substantial record of juvenile misconduct, financial irresponsibility, or other conduct or behavior

not in the best interest of Army law enforcement.

3. Personnel training requirements.

a. Your goal as an MPI supervisor is to achieve excellence within the section. Developing high quality personnel depends on training. Training of personnel in MPI is the key to achieving and maintaining excellence.

b. All MPI/DAC Detective/Investigator personnel should be school trained. However, it is difficult to achieve this goal. Therefore, the supervisor will be responsible for in-service training sessions. This augments resident and correspondence course training. The trainer gives current information to the MPIs and DAC Detectives/Investigators on techniques and methods used in investigations. A continual in-service training program should be set up by the supervisor. These types of training programs assist the section in striving for a record of excellence.

c. Military and civilian education programs can be used for in-service training. Law enforcement curriculum from both civilian and MP programs should be used for a broad knowledge base in police operations.

(1) The Army provides ways to obtain MPI/DAC Detective/Investigator training. They are discussed below.

(a) Formal MP training. Formal MPI DA Detective training is available at the United States Army Military Police School, Fort Leonard Wood, Missouri.

(b) On-the-Job training. On-the-job training is another way to learn. Completion of an on-the-job training program conducted by the PM will upgrade skills. However, it should not be used as a substitute for formal training. Formal training should take place as soon as possible. On-the-job training should act to reinforce formal instruction and not to replace it.

(2) The nominated enlisted MPs or DAC must first receive a favorable written response from the Crime Records Directorate. Then, after having completed the Military Police Investigators Course at the United States Army Military Police School (USAMPS), he will be eligible to receive the additional skill identifier, ASI V5 (for military personnel), and be issued MPI credentials.

4. Credential accountability.

a. MP Investigators are issued standard identification credentials to perform their job. These are proof of identity and imply the authority of the investigator. Credentials are issued by the PM or his appointed representative.

b. The only authorized credentials for MPI (military personnel) are DA Form 3837 and DA Form 3837-1, and the only authorized credentials for DAC detectives are DA Form 3837-2 (Department of the Army Civilian Detective [Front Page]) and DA Form 3837-3 (Department of the Army Civilian Detective [Back Page]). These credentials are numbered serially with a letter and a 4-digit number and contain the name, physical description, date of birth, color photograph in civilian clothing, and signature of the individual to whom issued. The issuing PM will validate the credentials and the expiration date shown. MPI credentials will be laminated, and will not be copied or reproduced for any reason.

c. Credentials will not be altered in any way. Altered, marred, or defaced credentials will be recovered, and

an appropriate inquiry conducted to determine the reasons for the damaged or altered credentials. All damaged, mutilated, altered, or permanently withdrawn credentials will be destroyed, and the reason recorded in the appropriate section of the MPI credentials log. Destruction of credentials will be witnessed by a disinterested commissioned officer whose name, SSN, and unit will be entered in the MPI credentials log.

d. The PM will verify that the credentials are authentic. MPI credentials are issued for a period not to exceed 48-calendar months from the date issued.

(1) It is important that control of credentials and their issuing be safeguarded. You can imagine what could happen if unauthorized personnel were to get a copy of MPI credentials. Because of the requirement for control, there is a system for accountability. Some of the elements of that system are:

(a) A commissioned officer is appointed as the credential control officer. His alternate is also a commissioned officer. A civilian security officer (GS-10 or above) may also be appointed when no commissioned officer is available.

(b) A credential accountability control log is set up to record information about credentials.

(c) Control over nonissued credentials exists. As a minimum, unused credentials will be afforded the same security controls as other DA-controlled forms.

(d) There are adequate physical inspection procedures in place.

(2) Credential control is so important that the credential accountability log deserves special mention. This log ensures that the PM knows where all the issued and unissued credentials are. This log accounts for issue, custody, and withdrawal of MPI credentials.

(a) Information entered in the credential accountability log as a minimum includes:

- Date and serial numbers of credential received from higher headquarters.
- Name in which the credentials are issued.
- Date of issue.
- Name of the person issuing the credential.
- Date of withdrawal.
- Reason for withdrawal.
- Disposition: expiration, destruction, loss, returned to higher headquarters.
- Date of disposition.
- Name of disposer.
- Name, SSN, and unit of the disinterested commissioned officer witnessing destruction of credentials.

(b) As an MPI supervisor you must know where your credentials and the credentials of your staff are at all times. You have full responsibility for credentials under your authority. Therefore a monthly physical inspection of credentials in the possession of MPI and DAC Detective/Investigators should be held. The results of the inspection/inventory will be recorded in the MPI credential log.

(c) As an MPI supervisor you need to ensure the establishment of procedures for permanent and temporary withdrawal of credentials is followed.

MPI credentials will be withdrawn for the following reasons:

- Withdrawal based on permanent change of station orders, termination of civilian employment, or assignment to other duties is permanent, and the credentials will be destroyed.
- Temporary withdrawal during the course of an investigation involving allegations against an investigator (which could result in withdrawal for cause); during authorized absences (for example, leave, hospitalization, or TDY not associated with a particular investigation); or under other conditions and circumstances that a PM specifies, is considered temporary.

(d) The PM has the authority to specify other circumstances under which credentials may be withdrawn for cause. Withdraw for cause will constitute disqualification for assignment as an MPI or DAC Detective/Investigator. Any of the following are cause for withdrawal of credentials and revocation of the ASI V5 (for military personnel):

- Inefficiency, to include failure to qualify with the assigned weapon or failure to maintain an appropriate level of physical fitness and appearance.
- Indiscretion, disaffection, breach of discipline, abuse of privilege, or the unauthorized release of criminal information.
- Financial irresponsibility.
- Demonstrated lack of character or moral integrity necessary for proper performance of investigative duties.
- Failure to secure or account for evidence.
- Mental disorder verified by competent authority.
- Failure to successfully complete the MPI course of instruction.
- Loss of credentials through neglect.
- Revocation or denial of a security clearance or receipts of unfavorable determination on a National Agency Check (NAC).
- Any other conduct that would preclude the individual's continued performance of investigative duties.

- Voluntary request for removal from the MPI program or from assignment to MPI or DAC Detective/Investigator duties.

5. Personnel utilization.

MPI and DAC detectives/investigators fulfill a special need for an investigative element within the MP to investigate many incidents, complaints, and matters not within USACIDC jurisdiction, but which cannot be resolved immediately through routine MP operations. Except as otherwise provided, MPI and DAC detectives/investigators will normally be employed in the following investigations:

- a. Normally, offenses for which the maximum punishment listed in the Table of Maximum Punishment, appendix 12, Manual for Courts-Martial (MCM), is confinement for 1 year or less. Provisions of the Federal Assimilative Crimes Act (18 USC 13) will also be considered when assigning cases to MPI. The same punishment criteria apply.
- b. MPI and DAC detectives/investigators, will investigate property-related offenses, when the value is less than \$1,000, provided the property is not of a sensitive nature, such as government firearms, ammunition, night vision devices.
- c. Activities required for the security and protection of persons and property under Army control, to include support of the Armed Forces Disciplinary Control Boards as prescribed in AR 190–24. If, during the course of an investigation, MPI or DAC detectives/investigators detect a crime-conducive condition, the appropriate physical security activity will be promptly notified. Crime-conducive conditions will also be identified in MPRs.
- d. Offenses committed by juveniles, when not within the investigative responsibilities of USACIDC.
- e. Gang- or hate crime-related activity, when not within the investigative responsibilities of USACIDC.
- f. The investigation of all offenses involving the possession, selling, and/or use of both nonnarcotic and narcotic control substances (with the exception of marijuana) detected through the Army's command-directed urinalysis testing program, will fall under the purview of the CID. The investigation of cases involving the use, selling, and possession of marijuana will be conducted by MPI.

NOTE: You should also know that the Department of the Army has a policy of encouraging controlled substance abusers to enter into treatment and rehabilitation programs, specifically, the U.S. Army Substance Abuse Program (ASAP), AR 600–85. It is Army policy to encourage voluntary entry into treatment and rehabilitation programs. ASAP participants will not be approached for the purpose of soliciting information; however, ASAP participants may, on their own initiative, volunteer to provide information and assistance to MPI or DAC detectives/investigators.

PART B - Section Records, Files, and Forms.

1. Investigations generate a lot of documentation. Without some kind of system to handle this, important information could be permanently lost. This portion of the lesson will address MPI Section records, files, and forms. The purposes of maintaining MPI records and files are to:

- a. Provide a source of ready reference.

- b. Ensure continuity of action in the MPI Section.
- c. Enable authorized personnel not familiar with a given MPI investigation to acquaint themselves with previous data.
- d. Maintain a permanent record of incidents and offenses investigated by MPI within the area under the control of the local PM.
- e. Help the supervisor to make sure there is an equal distribution of work.

2. There are several types of records and files used by the MPI Section. We will review each of them for a better understanding of the flow of paperwork within the MPI Section.

- a. Section Records.

MPI Complaint Case Log. When an offense or incident occurs, the report should be entered on the MPI Complaint/Case Log.

(1) MPI Sequence Number. This number helps to control statistics and interoffice administration. All documents that apply to the MPI case should have a sequence number. The first three digits should be the numerical code designator of the local MP unit. See the form provided in figure 3-1. Where would you enter the MPI Sequence Number? If the MP unit code designator is 043 and the year is 2006, then the complete sequence number for the third entry (complaint) would be MPI 043-06-03.

1. MPI SEQUENCE NUMBER	2. DATE ASSIGNED	3. MPR NUMBER	4. DATE OF INCIDENT	5. OFFENSE (S)	6. SUBJECT (S)	7. VICTIM (S)	8. MPI ASSIGNED	9. STATUS	10. REMARKS
1	1 Mar	00123-XX	28 Feb 1500hrs	Larceny (\$50.00)	JONES, Jim R. SSG	MILLER Cathy E.	ROGERS	F-6 Mar (Unfound- ed)	MILLER report- ed that JONES stole \$50.00 from her room.
2	2 Mar	00127-XX	1 Mar 1800 hrs	Larceny (2 Coats)	Unknown	US Govt (Post PX)	SCHULTZ		PX Manager (Mr. SMITH) reported that someone stole 2 coats from the PX (Main Shop).
3	2 Mar	00136-XX		Surveil- lance of parking lots	Unknown		ROGERS SCHULTS ROBBINS CLAYTON		Post PM di- rected that a survey be con- ducted of all lots assigned to the 20th Field., & to apprehend per- sons respon. for vandalism concerning MPRs 00128-XX 00129-XX 00130-XX.

Figure 3-1. Complaint Log.

(2) Date Assigned. This is the date the MPI Section received the complaint for investigation.

(3) MPR Number. The first set of numbers is the sequence number of the report. For example, 00001. The second set of numbers is the year, 00001-06, and the third set is the Military Police Code (MPC) number assigned to the Provost Marshal's Office (PMO); for example, 00001-06-MPC032.

(4) Date of Incident. Enter the date the incident happened.

(5) Offense(s). If the complaint is not a criminal offense, enter the reason for the complaint. If the complaint is a criminal offense, enter it on the form. Anytime you write down a criminal offense, write it down the way it is shown in the MCM or in the correct civil statute. Use civil statutes when you use local laws under the Assimilative Crimes Act.

(6) Subject(s). Name and title or grade of the subject should be entered. When there are more than three names, enter two names and put any other names on the third line. Example: John Doe and 5 others. If the offense was committed by a company or a firm, enter the name of the company or the firm.

(7) Victim(s). Enter the name, title, or grade of the victim. If there is more than one victim, use the same procedure as discussed above. If the victim is a company or firm, enter the name of the company or firm.

(8) MP Investigator. Enter the name of the MPI assigned to the case. Last name only is used unless your section has two or more people with the same last name.

(9) Status. Record the administrative reporting requirements and the date they were accomplished.

(10) Remarks. Use of this block on the form should be determined from within your section. A few important facts about the case will help people to remember a specific incident.

b. Investigator Activity Summery (DA Form 7569). This is another form used in the MPI Section administration. This form will include a well-written chronology of investigative activity that has been completed.

(1) Each time there is any action during an investigation, an overview of what happened is entered in the Summery of Investigative Activity. Can you see how this would be helpful when you are trying to remember a specific case and what has been done on it? Imagine how helpful these case summaries are when you are busy handling many cases at one time.

(2) Using the Investigator Activity Summery, the MPI supervisor should be able to determine the current status and progress of any investigation. Also, in an emergency, the MPI case can be turned over to another investigator. The new investigator would need that summary information to become familiar with the case.

c. MPI Case Folders. Each MP investigation will be assigned an MPI sequence number. Each case will be kept in a separate manila folder identified with the complete sequence number and the Military Police Report (MPR) number. On the left side of the folder, in chronological order from bottom to top:

- Case notes completed by the investigator.
- Sketches, Interview work sheets.
- Evidence vouchers, Photographs.
- Civilian police/autopsy reports, DA Form 2823 (Sworn Statement).
- DA Form 3881 (Rights Warning Procedure/Waiver Certificates).
- Draft report to include the DA Form 3975 (MPR).

The right of the folder from bottom to top will contain the following documentation:

- External correspondence
- Authorization documents (Privacy Act release Statements)
- Request for assistance and responses received in support of such request
- Supplemental DA Form 3975
- DA Form 4833 (Commanders Report of Disciplinary Action Taken)

- Final DA Form 3975 with enclosures
- DA Form 7570 (Investigator Data Form)

d. Evidence Custody Ledger. The evidence ledger is the key to keeping track of evidence. This bound record book depicting six-columns spanning two pages provides double accountability. It can be used to cross-reference custody documents. The evidence custodian is responsible for maintaining the evidence custody ledger.

The various columns that need information entered in them are listed from left to right on the ledger.

(1) Column 1 - Document number and date received. This column contains the document number assigned to the evidence custody document. The date that DA Form 4137 was received in the evidence room is entered below this number. The start of each calendar year marks the opening of a new ledger. There is a coding system for entering information into this column. When evidence is received by the evidence custodian, he will assign the number next in line in column 1; then use a hyphen and assign the last two numbers of the current year. For example, suppose today is January 3, 1987; you, as the evidence custodian, receive evidence today that is the fifth piece of evidence gathered and left in the evidence depository. What number would you mark in column 1? The correct answer would be 0005-87.

(2) Column 2 - CID sequence number or MPR number. The office investigative file number assigned to the investigation to which the evidence pertains is entered in this column. The evidence custodian will also enter the MPR number in the remarks column when the evidence pertains to both a CID and an MP investigation.

(3) Column 3 - Brief description of evidence. A brief description of the evidence is entered in this column, such as “.38 cal pistol, SN# 000000,” or “25 handwriting exemplars of SGT Smith.” A single line in the ledger is used to record each single item of evidence. The same item number listed on DA Form 4137 will identify each item of evidence in the ledger. Items that are considered fungible or other evidence that is sealed in a container will be described briefly with information taken from the data on DA Form 4137. This entry does not imply that the evidence custodian has inventoried these items.

(4) Column 4 - Date of final disposition. The date the evidence was disposed, as shown in the “Chain of Custody” section of DA Form 4137, is entered in this column. When DA Form 4137 contains several items that are not disposed of on the same date, the date of disposition for each item should be recorded on the same line. When all the items in an entry are disposed of on the same day, only one date is required to be entered, followed by the words “all items” (such as 12 Jan XX – all items).

(5) Column 5 - Final disposition. The method of final disposition for each item of evidence is entered in this column on the same line. When all items in the entry have been disposed of in the same manner, the means of disposal may be listed once, preceded by the words “all items” (such as “all items burned”). Both the date and method of final disposition must match what is shown in the chain-of-custody portion of the evidence custody document for each item of evidence.

(6) Column 6 – Remarks. The evidence custodian may use this column to record necessary information. When fungible or other evidence is received in a sealed container and cannot be inventoried, the notation “SCRCNI” (Sealed Container Received, Contents Not Inventoried) is required in this column. If .0015 funds are retained as evidence, “.0015 funds” must also be noted in this column. The other types of entries are optional and commonly made in pencil to facilitate changing. Some examples include the names of the case agent, owners, subjects, victims, location of evidence in the evidence room.

e. Source Files.

(1) Using sources to obtain information helpful to MPIs is a common practice. All MPI supervisors should keep files with detailed information about sources. This is a working file. Handwritten notes, copies of Investigator Case Progress Summaries, and other information should be kept up to date.

(2) Source files must be well kept and have limited access. They should be secured and controlled by the MPI supervisor.

(3) Each source is assigned a code number. Information about the source is kept on a Source Card. The card must be properly filled out. It must have the following information:

(a) Source code number.

(b) MPI Section code number plus three digits assigned by the PM.
(Example: MPI-376-540)

(c) File the Source Information Card in the MPI Section files.

f. Interview Worksheet. When an interview or a contact with a source is finished, make sure the investigator completes an interview worksheet. Information should include:

(1) MPI case number.

(2) Personal data.

(3) Physical description of source.

(4) Investigator's checklist giving the basic information about the interview and methods used.

(5) Remarks related to the source and the interview.

(6) Time and date of the interview, rank and last name of the investigator.

g. .0015 Confidential Fund Expenditure.

(1) When conducting undercover operations or gathering information through the use of a source/sources, the use of .0015 is authorized. Expenses paid by MPIs or DAC detectives/investigators to sources or sources who furnish or who are considered qualified to furnish information of value to an investigation, is a proper claim for reimbursement from .0015 funds. These expenses include interview amenities, individual payments, and reimbursements for expenses incurred by sources or sources that assist in the investigation. In accordance with AR 195-4, contingency limitation .0015 funds are under the control of USACIDC but are available to MPI for certain extraordinary expenses. All MPI and DAC detectives/investigators must be familiar with AR 195-4 and clearly understand how the funds are administered and what expenditures are authorized. Assistance may be obtained from the fund custodian of the supporting CID field element.

(2) MPIs, and DAC detectives/investigators will require that sources or confidential sources sign a receipt for .0015 funds. However, when a source or confidential source refuses to sign a receipt, a signed certificate from the MPI or DAC detective/investigator recording the paid funds is acceptable instead of a

receipt. To protect MPIs, or DAC detectives/investigators, the source, or confidential source payments and related certificates, should be witnessed by another law enforcement person if he refuses to sign a receipt. A copy of the MPI's or DAC detective's/investigator's certificate will be placed in the source's file when a receipt cannot be obtained.

h. Purging Source Files. When it is decided that a source's service is no longer needed, a detailed explanation (MPI statement) should be entered in the file. The file should then be closed out. The code number assigned to that source should be vacated. Vacated source code numbers should not be used again until number 999 has been used. When these steps have been taken, the source's file should be placed in an active file for 1 calendar year. Then, the file should be destroyed.

i. Liaison Files

(1) Liaison Files should be kept by each MPI Section. Each person who has official business with the section should be on file.

(2) The purpose of the Liaison File is to establish good relationships between members of the MPI Section and other agencies. Some of the items that should be entered on the Liaison File are:

(a) Names and addresses. Include telephone numbers of all important contacts. Having this information on hand eliminates the need to search for the person when a report is to be made.

(b) Information about the person's traits and hobbies. Knowing this kind of information about a person helps conversation. It promotes good public relations.

(c) Where would you enter the information about a person's hobbies or traits? What do you notice about telephone contact numbers? What can you immediately learn that would help you start a conversation? Does he have an in-home office? This is the type of information that can prove helpful during an investigation.

j. Property Files.

Property Files are located within the MPI Section. Property files are used to report property that has been stolen, or is missing. A missing and recovered property file card, figure 3-2, will help identify stolen and/or missing items when they are found.

MISSING AND RECOVERED PROPERTY FORM			
1. Classification		2. MPI #	3. MPR #
4. MPI Assigned	5. Date Assigned	6. Serial #	7. Date lost or stolen
Private Property Govt. Property 8. Other	9. Owner		10. Address
11. Description and/or circumstances			
12. Date Recovered	13. How Recovered	14. By Whom	

Figure 3-2. MPI Missing/Recovered Property File Card.

k. Modus Operandi Card File.

(1) The Modus Operandi Card File contains information on distinct manners or similarities of crimes committed. This file contains criminal intelligence cross-indexed by subject and cases.

(2) When an investigation is initiated, the Modus Operandi Card File should be checked for information regarding offenders, victims, witnesses, and similar offenses.

3. Frequently Used Forms.

a. DA Form 3881, RIGHTS WARNING PROCEDURE//WAIVER CERTIFICATE, is used as a means to provide standard and positive proof that a suspect/subject has been advised of his legal rights. This form indicates that a suspect/subject has been advised of his legal rights and understands them. After he understands his legal rights, he either waives or does not waive them. This form must be prepared and completed before any suspect/subject is questioned for any type of offense. Preparation of the form is as follows:

(1) The person who will question the suspect/subject must follow a specific procedure.

(2) The interviewer must read the suspect/subject his rights warning from the form.

(3) If the suspect/subject agrees to be questioned, he must sign his name on the line marked "Signature of Interviewee" in the "Waiver" section.

(4) If the suspect/subject does not want to be questioned, he must sign his name in

the "Non-Waiver" block.

NOTE: It is imperative that this form be filled out before any questioning or statement preparation.

(5) If, during or after the interview, the suspect makes a sworn statement, the DA Form 3881 (Rights Warning/Waiver Certificate) must be attached to the DA Form 2823 (Sworn Statement). These forms are covered in more detail in Lesson 2.

b. DA Form 2823 is used to record sworn statements. A statement can be taken from anyone who has knowledge of a case that is being investigated, whether that person is a witness, a victim or a subject. In order to permit a written statement to be admissible in court, they must be carefully and completely prepared, no blocks within the DA form 2823 can remain blank. By following the guidance below the investigator can ensure the DA Form 2823 is completed correctly.

(1) Enter the geographic location, such as the city, or installation in which the statement is rendered.

(2) Enter the date of the interview. Have the interviewee initial above the date after he signs the sworn affidavit located on the last page of the statement.

(3) Have the interviewee write the time and initial above it after he signs the sworn affidavit located on the last page of the statement.

(4) Enter the MPI sequence number.

(5) Enter the interviewee's last name, first name, and middle initial.

(6) Enter the interviewee's SSN.

(7) Enter the military or civilian pay grade of the person being advised; for example, E3,03, or "Civ" if there is no military affiliation. If the person is in the military, indicate his status as Active Duty (AD), United States Army Reserve (USAR), or United States National Guard (USNG).

(8) Enter the interviewee's complete military or governmental organization including unit, installation, state, and zip code or APO or FPO. If interviewing a civilian who does not have any military affiliation, enter his current home address including the city, state, zip code, APO or FPO.

(9) The large blank area following the sentence "I _____, want to make the following statement under oath," is where the actual statement made by the person will be entered. In most cases, the statement will consist of a narrative section followed by a question and answer portion. The narrative format is where the interviewee provides his version of events in a logical story-based format in his own words. At the completion of the statement, a written question and answer may be necessary to clear up any details or inconsistencies, gaps, or other issues that are not clear to the investigator. When the interviewee has completed the statement, the following phrase should be placed at the end of the statement: "Do you have anything to add to this statement?" When the interviewee answers "no," write "END OF STATEMENT" to close it out.

(10) The affidavit is the last portion of the DA form 2823. It states that the information contained in the statement was given voluntarily and that all mistakes and corrections on the statement were corrected and initialed by the interviewee. Prior to administering the oath, the investigator should have the interviewee read the entire document out loud. This will allow the investigator to refute later claims that the interviewee could not read and was too embarrassed to tell the investigator. Prior to administering the oath, the investigator

should have another investigator present to witness the administration of the oath. Adminstrating the oath is conducted by the investigator raising his right hand while having the interviewee raise his right hand and asking, "Do you swear or affirm that statement is true and correct to the best of your knowledge, so help God?" If the interviewee objects to the use of the word "God," read the oath again, leaving out the word "God." Upon the interviewee's affirmative response, have him place his initial at the first and last word in the statement, the bottom of each page, and time and date blocks. Have the interviewee sign his name above the "signature of the person making statement." The investigator will then sign his name above the signature of the person administrating the oath. Additionally, the investigator must print his name above the typed name of the person administrating the oath. If the interviewee is military, the authority to administer the oath is "UCMJ Article 136." If the interviewee is a civilian, not subject to the UCMJ, the authority is Section 303, Title 5, USC (5 USC 303). The people selected to witness the oath should also witness the swearing of the statement. The two witnesses should then complete and sign the affidavit portion of the form. Last, have each witness sign and print his name and organization in the "witness portion" of the statement.

(11) If the form is being used in connection with a case, attach one copy of the statement to each copy of the MPR.

c. DA Form 4137, Evidence Property Custody Document. Evidence is anything that helps to ascertain the truth, or gives proof of a fact. Evidence may be physical or testimonial. DA Form 4137 is used as a receipt for property. It is issued when property has been:

- (1) Seized as evidence.
- (2) Received from prisoners.
- (3) Received from detained people.
- (4) Found on a military installation.

(5) DA Form 4137 is the official record for evidence and chain of custody acquired by MPs, MPI, DAC detectives/investigators, and CID personnel. No other form or type of receipt will be accepted.

(6) When used as an evidence receipt, MPI or DAC detectives/investigators will prepare the evidence custody document with an original and three copies.

(7) When evidence is received for the first time, the last copy of the signed evidence will be given as a receipt to the person releasing the evidence. If the evidence is not released by a person, but gathered through a crime scene, all copies of the document will be retained and released to the evidence custodian.

(8) The MPI or DAC detective/investigator must ensure that all blocks of the DA Form 4187 are filled out completely.

(9) The property description must be as complete as possible. This is done by listing each item separately in the "Item No" block, and the quantity of items in the "Quantity" block. Within the "DESCRIPTION OF ARTICLES," a detailed description of the property must be made. Note the date and time as marked on the evidence or the container that holds it. The owner of the property should review and sign the form in the first block of the "Released By" column. If the owner refuses or is unable to sign the form, you should explain why after the last item listed. The form should be signed by the person preparing it.

(10) Next, see the "Received By" column. Each time the property changes custody, the person receiving the property is to sign here. The person releasing custody of the property signs in the "Released By" column. Enter the reason for the exchange of custody in the "Purpose for Change of Custody" column.

d. DA Form 4002, Evidence/Property Tag and 4002, Self-Adhesive Tag. This form is attached directly to the property and used to identify property seized as evidence or held for safekeeping. When items are grouped together (for example, a box of tools) and listed as one item on the evidence document, only one tag will be used. The new self-adhesive revised version replaces the shoe tag version of the evidence/property tag; however, the shoe tag will be used when appropriate until supplies are exhausted. When the self-adhesive version is used, it may be affixed directly to the item of evidence, if appropriate, or it may be affixed to a blank shoe tag that is attached to the time. The form 4002 is made out in one copy. It is to identify bulky items that are:

(1) Found on Military Installations.

(2) Seized as evidence.

(3) Received by MPs from prisoners or others for safekeeping.

(4) DA Form 4002 is used with DA Form 4137 (Evidence/Property Receipt).

(5) DA Form 4002 should be directly attached to the property until final disposition is made. After final disposition of the property, the tag can be destroyed.

e. The Criminal Data Reference Card, DA Form 2804 is used to provide identifying information on subjects of MPRs to the United States Army Combat Readiness Center (USACRC). It is used to forward this information on:

(1) Violations of Article 111 through 134, UCMJ.

(2) Violations of the UCMJ for which the maximum punishment prescribed in the MCM is confinement for 6 months or more.

(3) An offense under the Assimilative Crimes Act (18 USC13) or other federal statute for which there is no corresponding offense in the MCM and for which a maximum punishment of 6 months or more confinement is prescribed.

(4) Offenses which result in revocation or suspension of driving privileges or the assessment of six or more points as outlined in AR 190-5.

(a) Additionally, a separate DA Form 2804 is submitted for each individual subject, with both real and aliases names, utilized during the course of an investigation of a special category offense, regardless of any DA Form 2804 that was sent to the Army Crime Records Center.

(b) The following information is required on DA Form 2804, prior to sending it to the Army Crime Records Center:

- Name (Last, First, Middle).
- Grade (E-1, O2, GS 3, Civ).

- SSN.
- Aliases (other names used, nickname).
- Sex (male/female).
- Race/Ethnic.
- Former Service Category (SVC) Number.
- Date of Birth/Place of Birth (City/State).
- Report of Investigation (ROI)/MPR Number (Include Primary Offense Code).
- Other offense code.
- Organization and station.
- Check appropriate box for suspect, subject, or victim.
- Date of report and action taken.
- The block for remarks can be used for additional information.

PART C - Investigative Activities Management.

1. We will now discuss the supervisor's responsibilities for the activities within the MPI Section. The activities that will be discussed include crime scene processing, evidence handling, covert operations, and planning and preparation for selective law enforcement based on historical data.

2. An investigation is the art of gathering and evaluating information obtained from persons and objects. Every investigation involves the gathering of evidence, both physical and testimonial. Testimonial evidence is gathered through the use of interviews and interrogation. The questioning of suspects, witnesses, complainants, victims, and sources is the procedure most often used by MPI. Most of the workload consists of evaluating interview and interrogation results. Before we discuss interviews and interrogations, look at the following definitions. You must first understand the terminology used during this learning event.

- a. Interview. Involves questioning a person who is ready, willing, and able to provide information.
- b. Interrogation. Involves questioning a person suspected of having committed or helping commit an offense and who is not able or willing to fully disclose information he possesses.
- c. Victim. A person whose property (or physical body) has been the object of an offense.
- d. Suspect. A person for whom probable cause exists that the person committed the offense.
- e. Subject. A person for whom credible information exists that would cause a reasonable person to suspect that person of committing a criminal offense.

f. Witness. A person who has information related to an offense.

g. Investigation. An investigation of a criminal incident, offense, or allegation by law enforcement personnel.

3. Interviews and Interrogations.

a. Most investigations depend upon the investigator to obtain information. Many crimes have been solved as the direct result of leads and evidence developed through interviews and interrogations. The investigator must become a competent interviewer and interrogator. The investigative supervisor must ensure that the investigators follow procedures.

b. MP Investigators and their supervisors must know how to conduct themselves in interviews and interrogations and how to evaluate the information obtained.

c. Before MPIs or DAC detectives/investigators can hope to develop interviewing and interrogating skills, they must know the basic techniques of interviews and interrogations.

d. Supervisors of MPIs and DAC detectives/investigators must be aware of the basic and advanced techniques of interviewing and interrogating. These procedures and skills are taught in specialized MPI courses using guidance taken from existing military publications and regulations. We will also take a more detailed look at these procedures in Lesson 2.

4. Crime Scene Processing.

a. The crime scene is the area surrounding the location of a crime. Accurate crime scene processing depends on the investigator's skill. The investigator must hone his skill in recognizing and collecting evidence (physical and testimonial), and facts that may serve as evidence in a legal case.

b. The MPI or DAC detective/investigator should maintain CONTROL and SECURITY of the crime scene.

c. Preserving the scene depends on the actions of the first MP to get to the scene. The initial response should be done in an expeditious but cautious manner. It is important that the MP be observant when approaching or entering a crime scene. He must be able to detect, and determine the presence of potential threats from people, chemicals, or explosive devices. Additionally, he must remain diligent in his observations for vehicles, events, potential evidence, and environmental conditions.

d. When an MP unit arrives at the scene, several steps should be taken. The next section will list and describe those steps. Actions should include:

(1) Record the date, location, arrival time, and weather conditions.

(2) Ensure that there are no immediate threats to other responders by scanning the area for sights, smells, sounds that may be dangerous to personnel, such as HAZMAT, gasoline, and natural gas. If the situation involves Weapons of Mass Destruction (WMD), clandestine laboratory, biological/radiological weapons, do not enter the crime scene and notify the appropriate personnel or agency.

(3) Arrange for medical attention if someone is injured.

(a) Medical people entering the scene of a crime could possibly destroy some of the evidence. Take steps to preserve the crime evidence as much as possible.

(b) When medical personnel must go to a victim, the MP should guide them to the injured person so that any evidence is not contaminated. Point out potential physical evidence to medical personnel, and instruct them to minimize contact with the evidence; for example, ensure that medical personnel preserve all clothing and personal effects without cutting through bullet holes or knife tears, and document any movement of individuals or items by medical personnel.

(c) Instruct medical personnel not to “cleanup” the scene and not to remove or alter items originating from the scene. Prior to medical personnel leaving, obtain the name, unit, and telephone number of attending personnel and the name and location of the medical facility where the victim will be taken. If medical personnel arrive prior to the MP, this same information should also be sought out. Send an MP with the victim or suspect to document any comments made (such as a “dying declaration” if there is a chance that the victim or subject may die) and to preserve evidence if the victim or suspect is transported to a medical facility.

(4) If the offender is at the scene, apprehend him.

(5) Securing the crime scene.

(a) The first responding MP should control, identify, and remove individuals at the crime scene. Controlling the movement and limiting the number of persons who enter the crime scene are essential in maintaining scene integrity, safeguarding evidence, and minimizing contamination.

(b) It may be necessary to reroute traffic in order to preserve the scene.

(6) Identify all personnel at the scene.

(a) Suspects must be secured and separated away from each other and direct view. Ascertain their names, telephone numbers, units (if military) or addresses, and any other vital information that will be needed to get in contact or identify them.

(b) Witnesses must be secured and separated to prevent the collaboration of stories. Ascertain their names, telephone numbers, units (if military) or addresses, and any other vital information that will be needed to get in contact or identify them at a later time.

(c) Bystanders must be removed from the area unless they have been identified as possible witnesses.

(d) Victims’, family, and friends’ emotions will run wild and they must be handled with compassion.

(7) Boundary establishment.

(a) The first responding MP should make his initial assessment of the crime scene, control it, and then establish its boundaries. This is done by establishing a focal point and extending outward. Keep in mind the location of the crime, potential points of exit and entry of suspects, witnesses, and bystanders. Additionally, be aware of victims and evidence location that may have been moved, while preserving trace and impression evidence. The on scene MP can set up physical barriers by utilizing ropes, cones, crime scene barrier tape,

available vehicles, personnel, or other equipment. Existing boundaries, such as doors, walls, and gates can also be used.

(b) Maintain the integrity of the scene by controlling the flow of individuals by documenting all personnel entering or exiting the scene. Keeping a record of personnel information such as name, rank, SSN, and telephone numbers may prove useful in the future if you need to interview additional personnel that may be involved in the case.

(8) Take immediate action to preserve evidence that may be destroyed from rain, snow, fire, or any other cause; for example:

(a) During a rainstorm, use a raincoat to cover impressions in the earth.

(b) During snow, a cardboard box can be placed over impressions.

(c) Shield things that would melt from the hot sun.

(d) Cover food or blood to protect it from being contaminated.

(9) Document the original location of the victim or objects that are being moved. If possible, insist that the victim and objects remain in place until the arrival of the investigation team.

5. When an MPI or DAC detective/investigator is notified of a crime, he should write down the time, name, and position of the person who notified him. He should also obtain full identification of the reporting party and the details pertaining to the initial discovery. He must ask the following six “W” and “H” questions:

- “Who is involved (subject, victims, and witnesses)?”
- “What occurred?”
- “When did the incident occur?”
- “Where did the incident occur?”
- “Why this type of crime, victim, and location?”
- “How was the crime committed?”

6. Upon arrival of the MPI or DAC detective/investigator, a scene assessment should be conducted to determine the type and level of incident to be investigated. This will also allow for the investigator to develop a plan for the coordinated identification, collection, and preservation of physical evidence and identification of witnesses. During the scene assessment, an exchange of information between the first responding MP patrol and the investigator can occur.

a. The investigator in charge should talk with the first responding MP regarding his activities and observations and evaluate safety issues, such as blood-borne pathogens and chemical hazards that may affect personnel entering the scene.

b. Evaluate and establish a path of entry and exit to the scene to be used by authorized personnel, such as medical, HAZMAT, and other law enforcement agencies, if not already accomplished by the first responders, and evaluate the initial scene boundaries.

c. Establish a secure area within close proximity to the scenes for the purpose of consultation, equipment staging, and temporary evidence storage.

d. Determine and request additional investigative resources as required, such as personnel, specialized units, legal consultation, prosecutors, and equipment while ensuring continued scene integrity by documenting the entry and exit of authorized personnel and other related actions, and by preventing unauthorized access to the scene.

e. Ensure that witnesses to the incident are identified and separated. Obtain a valid identification from each. Ensure that the surrounding area is canvassed and the results documented. Ensure that the preliminary documentation, such as notes, photographs, and sketches of the scene, is complete. The initial photographs should include any injured individuals and vehicles involved in the incident.

7. The three "P's" of crime scene processing are Protect, Preserve, and Present. Each is discussed below:

a. PROTECT the crime scene from destruction or contamination.

b. PRESERVE all things and facts that may have value as evidence: photographs, supplement notes, sketches, and written reports. These all provide a permanent record of fragile evidence:

(1) Sketches. Whether rough or final, sketches that show in proportion the position of evidence, accurate measurements and triangulation, photographic positions, and items of interest to the case. Accurate sketches will help the investigator reconstruct the scene. Sketches must be as independent as possible. Rough sketches should be redrawn as final sketches and should be verified. All final sketches should contain:

(a) Title block.

(b) Legend.

(c) Direction of north.

(d) Measurement scale used.

(2) Notes. Accurate notes that are short and to the point of what you observed. Your notes may be entered as evidence in court proceedings. They may also be used to refresh your memory or serve as a guide to another investigator.

(3) Photographs. Photographs preserve many details of a crime scene. Crime scenes and evidence should be photographed before anything is moved or touched.

(a) Indoor and outdoor photographs should show:

- The immediate scene.
- Surrounding areas.

- Areas in the immediate location that are connected with the scene.
- Points of entry and exit.
- All areas that contain evidence.

(b) Photos should be taken right after an occurrence. They should include:

- Evidence of a struggle.
- Lighting conditions.
- Anything unusual or unnatural.
- All injuries of victims and/or suspects.

(4) Collect all evidence, trace evidence, and fingerprints.

(5) Measure all items of interest.

(a) Openings.

(b) Doorways.

(c) Exits.

(d) Items of furniture.

(e) Evidence and traces of evidence.

(6) Question suspects, victims, and witnesses.

(7) Mark evidence.

c. PRESENT what you found while you were processing a crime scene. If you are asked to present your findings, you must try to reconstruct what happened during the crime. You may be asked to testify in court. You would be asked to logically and positively identify all facts and things collected during your investigation.

8. Evidence Handling

a. Before we continue, look at some terms we will be using.

(1) Evidence. Anything that tends to help determine the truth of a matter. Anything that furnishes proof-of-a-fact. Evidence can be physical or testimonial.

(2) Moveable Evidence. Anything that can be picked up and moved from a crime scene. Tools, weapons, clothing, glass, and documents are examples of moveable evidence.

- (3) Fixed or Immovable Evidence. Anything that cannot be removed from the scene of a crime because of its size, shape, or makeup. Floors, walls, telephone poles are examples of fixed or immovable evidence.
- (4) Fragile Evidence. Anything that cannot be preserved without careful attention or evidence that will deteriorate or become destroyed without special care; for example, a footprint in the snow is fragile evidence. A cast can be made that preserves it permanently. Fingerprints can be "lifted" or removed.

b. Handling, packaging, and caring for collected evidence will require that the chain of custody be properly executed. A chain of custody is a chronological written record of all the people who had custody of evidence from the time it was collected until its final disposition. This chain of custody ensures continuous accountability. If the chain is not closely followed, an item of evidence may not be permitted in a court of law. Each person in the chain of custody is responsible for an item of evidence. He must take care of it, keep it safe, and preserve it while he has it. Following are the steps in the chain of custody:

(1) When evidence is first found at the scene, it should be photographed, sketched, triangulated, protected, and processed. It should be:

(a) Marked.

- Initialed by the person collecting the item.
- The time and date the evidence was received should be recorded.
- If items themselves cannot be marked, place them in a suitable container. Seal the container and then mark the container with date and initials.

(b) Secured, by the evidence custodian who will:

- Inventory all evidence.
- Sign all copies of DA Form 4137, accepting responsibility for accountability.
- Properly fill in the forms with the voucher number.
- Return one copy to the MP as a receipt to be included in the proper file folder.

(c) Logged in the Evidence Ledger.

(d) Disposed of if it is of no value.

(2) DA Form 4137 (Evidence Property Custody Document) should be properly filled out. One original and three carbon copies. After the forms are distributed, the remaining forms should stay with the evidence custodian.

(3) Evidence Property Custody Tag, DA Form 4002, must be completed and attached to each item of evidence.

(4) Review the receipt:

- (a) At the scene of the offense/incident.
- (b) On transfer of the evidence to an evidence custodian.
- (c) At the transfer of the evidence from the evidence custodian to the crime lab.
- (d) Upon return of the evidence.

(5) When you are collecting evidence, there are some important things to remember. The physical evidence should be collected and described in detail. The evidence should be based on what you can see. Do not base evidence on assumptions or guesses.

Descriptions of evidence should include:

- (a) Quantity of items.
- (b) The item itself.
- (c) Location.
- (d) Color.
- (e) Construction.
- (f) Size.
- (g) Identifying marks or features.

9. Special consideration should be given to examining the evidence. Be careful to look for additional evidence or trace evidence that could be easily overlooked. Be sure to examine the condition of the evidence. Make sure that all evidence is properly marked with the time, date, and initials of the person collecting the evidence. If the item is of great value it should not be marked, scratched, or defaced in anyway until it has been deemed that it has value as evidence.

10. Surveillance and Covert Operations.

a. Surveillance and undercover operations are excellent ways to observe individuals and locations for gathering police information or Criminal Intelligence (CRIMINT) about a suspect's activities and relationships. These tasks also help in the development of intelligence related to terrorists, organized crime, drug and contraband trafficking as well as serious crimes against individuals. These tasks require the use of sound techniques and the use of experienced, trained investigators.

b. Surveillance is the protection of MP personnel performing undercover operations as well as observing individuals, locations, and buildings to gather information that may be useful in the prosecution of a criminal offense. Surveillance can also be used in other areas of intelligence gathering such as checking the reliability of sources, supporting the Public Information Office (PIO), obtaining probable cause for request search warrants, or obtaining information for later use during an interrogation. There are generally two types of surveillance: stationary and mobile.

(1) Stationary or fixed surveillance, also known as a "stakeout" is conducted to observe the residence, business, or location that a suspect frequents in order to gather evidence and information of a criminal nature. Surveillance team can utilize vehicles such as vans or pick-up trucks with campers as long as the vehicle fits into the local area. These vehicles should mimic vehicles used by local business with slogans or advertisements, utility companies, road survey crews, etc. A building with a clear unobstructed view of the suspect, building, or location works best. The entrance and exit routes to the observation post should allow the surveillance team to come and go without being noticed. Once inside the observations post, the surveillance team not makes any unnecessary noise that would attract the suspect or anyone else.

(2) Mobile surveillance is commonly known as "tailing or shadowing." This method is used when the suspect is moving from one location to another either by foot or by vehicle. For this reason there are two types of mobile surveillance, foot and vehicle. The means to employ either of these methods will depend on the situation, rural area, city, congested traffic or the suspect is on foot. A combination of foot travel and vehicle travel may also be used; of course this will depend on the movement of the subject being watched. There are three types of foot surveillance: One-man, two-man, and ABC foot surveillance. The ABC method is considered the best as it utilizes three investigators.

c. Whether utilizing stationary or moving surveillance, it is extremely important to maintain a surveillance log. The log should contain information on the suspect's activities, detailed description of individual, vehicles, date, time, place of occurrence, and weather conditions. Notes in the surveillance log should be neatly written, precise, and cover all aspects of the observations.

d. There are three basic methods of surveillance: loose, close, and a combination of the two. Loose surveillance can be used to spot-check a suspect and gather long-term information and be discontinued if the suspect becomes suspicious that he is being followed. Close surveillance is when the surveillance team is in close proximity of the suspect. If the suspect is in an unfamiliar area or is lost in an unfamiliar area, the close surveillance team should use an alternate method of observation. The combination method basically utilizes both the loose and close method and is considered the best method to use.

e. The purpose of the surveillance is to gather information without the subject knowing he is being watched. Surveillance operations must be carefully planned and coordinated, although the plan does not need to be written or formal. The plan needs to include communication with the higher headquarters. It is important that all personnel involved in the surveillance be aware of all aspects of the plan. The surveillance plan should state general concepts of operations and duties to include coordinated actions, cover stories, clothing, and necessary equipment, hand or visual signals that will allow the investigator to communicate with other members of the team, electronic communications with other team members, portable radios with ear piece or cell phones. Being very knowledgeable of the plans, allows the surveillance personnel to adapt smoothly and efficiently to any changes that may occur.

f. Personnel that are selected for surveillance operations should be skilled in observation and description, have experience, be resourceful, patient, average weight and height, have no outstanding physical features that would draw attention from other people, possess the ethnicity and language skills of the environment he will be working in and be knowledgeable about the investigation itself and the elements of proof.

11. Undercover Operations. When an MPI or DAC detective/investigator goes undercover, he leaves his official identity and assumes the role of another person in order to collect the wanted information. He will associate with an individual or group of individuals in order to gather critical police information. Planning for an undercover investigation is done with a particular objective and with a certain end state in mind. The general rule for undercover work is to gather information, observe criminal activity, and collect evidence. Undercover operations are very dangerous and should be used only when absolutely necessary and supported by a

surveillance team. The undercover investigator must have a thorough knowledge of the objective and must prepare for his role. This can be done by selecting his identity, developing a background story, gaining knowledge of the suspect, gathering information on local situations, and establishing report procedures. A thorough knowledge of the suspect is very important. The undercover investigator must study the mannerisms, gestures, and speech of the criminal element he will be dealing with. The undercover investigator should draw up a list that details the suspect's history and character as well as be familiar with the suspect's name, address, description, family and relatives, associates, vices, occupation and propensity for violence. Only the most experienced investigator should be selected for undercover operations. The investigator must be able to adjust his personality traits to the role he is playing and have a clear understanding of the objective. He should be a skilled observer, know the elements of proof, have a high sense of recall, and be a person of sound judgment, resourcefulness, and endurance. When the decision is made to conduct undercover operations, the investigator should remain cognizant of the objective of the operations in gathering information, intelligence, and evidence; locating contraband; proving associations between conspirators; identifying witnesses and sources; determining if a crime is being planned or committed, and ascertaining the most advantageous time to make an arrest or execute search warrants.

12. Planning Enforcement Measures.

Selective Enforcement.

- a. The PM uses his law enforcement measures on "selective enforcement." By using this method, he can better utilize his law enforcement resources to address problem areas on the installation. In order to employ selective enforcement, the PM must have access to up-date information. Basing law enforcement measures on selective enforcement fosters an efficient use of manpower, and leads to crime prevention and law enforcement efforts. This in turn reduces the amount of guesswork for any MPI Section. The basis for selective enforcement is accurate, historical data on time, place, type, and frequency of incident or violations.
- b. Careful interpretation of data will help to determine the causes of the crime, the project operating costs, the necessary personnel, and the equipment required, as well as maintain accurate reports on the status of discipline within the command.
- c. Statistical data is used to plan law enforcement activities. The best place to find such data is in the records and files. We have already discussed the records, files, and forms commonly used. Selective law enforcement planning is another reason for accurate reporting by all MPs.
- d. The collection and compilation of data should be approached systematically. You must understand which information is needed. It is also important to use the correct format for completing the collection. If the data is collected or compiled poorly, faulty decisions in law enforcement planning could result.
- e. Raw data must be organized and summarized before it will have meaning. Raw data is usually gathered from various reports, records, or surveys, and appears as unorganized numbers and facts. One method of organizing raw data is by making a frequency distribution table. This method groups things that are the same together. It also reports the number of items in a group. Data can be classed by types of offenses, time of day offenses occur, and age of offenders. Additionally, another advantage of using a frequency distribution table is the preparation of data in a logical order, the condensing data, and the simplification of data while retaining important details.
- f. A method of providing statistical help is the calculation of percentages. Data presented in this form will give a clear representation of problem areas. Determining "rate" is another way to present raw data. This method expresses how often something happens compared to a standard unit per 100, 1,000 or 100,000.

g. Graphs can be used to show statistical information. Be careful when preparing graphs to avoid faulty presentation and interpretation. Some types of graphs are tabular presentations, curve charts, vertical bar charts, pie sector charts, and pin maps.

13. Personnel Selection.

Selective enforcement measures begin with the selection of the right personnel. Using observation and reports, the PM may learn who can be counted on. He may learn who performs assigned duties well, who does an average job, and who is very good in specific areas. Carefully selected personnel who are well trained are the most effective. They must be distributed in relation to time, place, type, and frequency of incidents. This information is revealed by interpreting the raw data discussed in the first part of this section. These personnel should be assigned to those areas where the highest rate of crime occurs. Preparation of personnel for various activities is important; each person must have a clear understanding of the mission and goal of the law enforcement program to detour criminal offense.

14. Equipment.

a. Equipment lists are tailored to the needs of each operation. This can range from radios, weapons, and vehicles, to very technical equipment.

b. Because the work of the MPI Section is often technical, special equipment may be needed. Equipment and materials should be identified in the Table of Distribution and Allowance (TDA)/Table of Organization and Equipment (TOE) authorization, or through routine supply channels. Priority is often given to the MPI Section because of the nature of its mission.

c. Surveillance, target acquisition, and night observation devices are needed. Communication equipment is also a priority. Some of the equipment used by the MPI Section is listed below with a brief explanation.

(1) Special communication equipment. Because of certain surveillance techniques, communication equipment may be needed. When this happens, a separate radio frequency should be used.

Policies for monitoring communications:

(a) The recording of telephone communications at MP operations desks is a form of command center communications monitoring. This provides a record of proof for emergency communications. This type of monitoring is not restricted like wiretapping and other forms of eavesdropping. There are restrictions when telephone and radio conversations are recorded. All telephones connected to recording equipment will be labeled "FOR OFFICIAL USE ONLY-CONNECTED TO RECORDING DEVICE", and access will be restricted to desk personnel only.

(b) AR 190-53 (Interception of Wire and Oral Communication for Law Enforcement Purposes) provides the policy for wiretap, investigative monitoring, and eavesdrop activities.

(c) AR 380-53 (Information Systems Security Monitoring) provides a policy for telephone monitoring for communications security purposes.

(d) AR 525-1 (The Department of the Army Command and Control Systems) provides a policy for monitoring telephone communications in DA command and control operations centers.

(2) Security surveillance systems: A closed circuit videotape system with audio capability may be used for security purposes. When this equipment is used, there must be notices posted in plain view at all entrances to the facility. This will provide all people entering the facility a warning of this type of monitoring.

(3) Recording interviews and interrogations is authorized. The person being interviewed must be aware that any testimony or statement he makes is being recorded.

15. National Crime Information Center/Centralized Operations Police Suite.

a. Using the National Crime Information Center (NCIC) and Centralized Operations Police Suite (COPS) is a big part of the MPI job. PMs and security officers use NCIC/COPS terminals to obtain information on suspects or subjects in the investigation of a crime. These systems are also used by MP personnel in the performance of law enforcement duties, and utilized in accordance with AR 190-27 and AR 190-45.

b. MPIs and DAC detectives/investigators may utilize the polygraph as an investigative tool. Polygraph testing is available through the CID. Requests for polygraph testing must be forwarded to the supporting USACIDC. Provisions for this procedure are listed in AR 195-6. MP investigators may not represent themselves as polygraph examiners.

c. Unmarked vehicles. A military vehicle would be very visible outside a military installation. If you are on a surveillance mission, you do not want your identity known. MPIs are authorized to use unmarked vehicles. Rental cars may be requested in accordance with AR 195-4. TDA authorizations should provide one vehicle for each two MPIs authorized.

16. Special Funds. The MPI Section may need extra funds to operate. These funds are not included in the regular fiscal budget for the MPI Section. Emergency funds are budgeted and planned for through CID for MPI. CID funds are available to support nonbudgeted MPI investigative requirements as well as emergencies. MPIs should be familiar with AR 195-4. This describes how CID funds are administered. AR 195-4 also explains what expenditures are authorized. If you need help understanding this funding, you may contact the CID fund custodian.

17. Apprehensions and Searches.

a. Apprehensions and searches are part of the everyday activities of the MPI Section. This section will address apprehension and the types of legal searches permitted. Lesson 2 cover this topic in detail. For now, let us look at this topic as a specific activity that must be managed from the MPI Section.

b. Apprehensions are made by MPs only when there is “probable cause” or “reasonable belief” that an offense has been committed by the person apprehended. “Reasonable belief” and “probable cause” are defined as the evidence necessary to convince an average person that an offense has been committed. The evidence must also convince an average person that the person to be apprehended and/or searched committed that offense.

c. Searches are legal when they are:

(1) Made right after legal apprehension.

(2) Made with the person's permission.

(3) Authorized by legal warrants.

(4) Authorized by commanders who have control over the person or area to be searched.

d. More information regarding searches is presented in detail in lesson two. There are strict requirements for conducting searches. As the supervising MPI, you must know the legalities behind searches. You must guide your staff through search and seizure procedures. You must also note that court decisions constantly define or redefine what is considered legal or illegal in search and seizure situations. Always seek guidance from the Staff Judge Advocate to ensure the guidance you provide to MP investigators is current doctrine.

18. Absent Without Leave (AWOL) Apprehension. The orders and regulations of the U.S. Army make it an offense for a Soldier to be absent from duty without proper authority. Commanders at all levels are primarily responsible for preventing or stopping AWOL; a drain on the Armed Forces. The PMO also carries heavy responsibility in the administration and processing of an AWOL soldier who has either been apprehended by civil authorities or has surrendered himself to the MP. As an MPI supervisor, you should familiarize yourself with the procedures and responsibilities outlined in AR 190-9, AR 190-45, and AR 630-10.

SUMMARY

This subcourse provided an overview of the various facets of investigation procedures, policies, and techniques. It included specific information on records, files, and forms and the importance of maintaining them.